SUPREME COURT OF THE UNITED STATES.

No. ~~315~~. ~~453~~. 76.

ROBERT TURNER, App't,

vs.

ANDREW FLANNIGAIN, JOHN S. BEACHAM, GEORGE P. BEACHAM, SAMUEL BEACHAM, & LENOX BEACHAM.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

GIDEON, Printer

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THE UNITED STATES OF AMERICA,
District of Maryland, to wit.

At a Circuit Court of the United States for the Fourth Circuit in and for the Maryland District, begun and held at the city of Baltimore on the first Monday in April, in the year of our Lord one thousand eight hundred and fifty-nine. Present: The Honorable R. B. Taney, Chief Justice of the Supreme Court of the United States; Hon. William F. Giles, Judge of Maryland District; Wm. Meade Addeson, Esquire, Attorney; John W. Watkins, Esq., Marshal; Thomas Spicer, Clerk.

Among other were the following proceedings, to wit:—

ROBERT TURNER
vs.
ANDREW FLANNIGAIN, JOHN S. BEACHAM, GEORGE P. BEACHAM, SAMUEL BEACHAM, and LENOX BEACHAM.

Be it remembered, that heretofore, to wit, on the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and fifty-nine, the said Robert Turner, by Benjamin C. Barroll, his proctor, filed in the Circuit Court here, a record from the District Court of the United States, in and for the Maryland District, in the words and figures following, to wit:—

Record of the District Court.

The United States of America, District of Maryland, to wit:—

At a District Court of the United States, in and for the Maryland District, begun and held at the city of Baltimore, on the first Tuesday in December, in the year of our Lord one thousand eight hundred and fifty-eight. Present: The Honorable William F. Giles, Judge of Maryland District; Wm. Meade Addeson, Esquire, Attorney; John W. Watkins, Esquire; Thomas Spicer, Clerk.

Among other were the following proceedings, to wit:—

ANDREW FLANNIGAIN, JOHN S. BEACHAM, GEORGE P. BEACHAM, SAMUEL BEACHAM, and LENOX BEACHAM,
vs.
ROBERT TURNER.
Libel filed 25 February, 1858.

Process.

The United States of America, District of Maryland, to wit:—

To the Marshal for the Maryland District, greeting:—

[SEAL.] We command you that you summon Robert Turner, owner or agent of the owners of the steamboat Susquehanna, to

answer the libel of Andrew Flannigain, John S. Beacham, George P. Beacham, Samuel Beacham, and Lenox Beacham, trading as A. Flannigain & Co., and how you shall execute this precept you make known to us in our said District Court for the district aforesaid, at the United States Court Room, in the city of Baltimore, on the first Tuesday in March next, and have you then and there this writ. Witness the Honorable William F. Giles, Judge of our said District Court, the first Tuesday in December, in the year of our Lord one thousand eight hundred and fifty-seven.

W. B. P. Issued 26 February, 1858.

THO. SPICER, Dist. Clerk.

Marshal's Return.

"Summoned." J. W. WATKINS, U. S. Marshal.

Libel.

To the Honorable William F. Giles, Judge of the District Court of the United States, for Maryland District.

The libel of Andrew Flannigain, John S. Beacham, George P. Beacham, Lenox Beacham, and Samuel Beacham, partners, trading as A. Flannigain & Co., of said district, humbly sheweth, that between the month of October, in the year 1856, and the month of March, in the year 1857, your libellants, at the special instance and request of Robert Turner, owner of the steamboat or vessel called the Susquehanna, did and performed various work and labor, and found and provided various materials, which work, labor, and materials are more particularly specified in the schedule hereunto annexed, together with the days on which and the prices at which the same were done, performed, and provided, and which the libellants pray may be taken as part of this their libel, and which work, labor, and materials were useful and necessary for said vessel, and for her safety and navigation on the high seas, &c. And the libellants further state that they have oftentimes applied to the said Turner for payment of the balance due on said schedule or account, but the said Turner hath always hitherto refused to pay the same. To the end, therefore, that your libellants may obtain relief in the premises, they pray that process of attachment and monition, as is usual in like cases, according to the course of Admiralty Courts, may be issued against the said Robert Turner, that he be and appear before this court to answer on his corporal oath this libel, and may it please your Honor to decree to these libellants the payment of their claim as aforesaid, with interest; and may it please your honor to grant them such other relief as their case may require.

W. B. PERINE, Proctor for Libellants.

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Schedule referred to in the Libel.

Baltimore, November 21, 1856.

Steamer Susquehanna: Robert Turner, owner,
To Andrew Flannigain & Co.

1856.			
Nov.	21.	4 ds. carp. 2 50, 3 boys 75	$12 25
		250 oakum 10, 2 bbls. pitch 3 25	31 50
		4 brooms 15, drayage 37	97
		19½ caulk. 2 06 (22) 8¼ carp. 2 50	59 62
	22.	34 spikes 10, 2 bbls. tar 4	11 40
		5 boys 75, 27 caulk. 2 00	57 75
	24.	837 ft. plank 4½, 19 slice irons 25	40 16
		8 carp. 2 50, 5 boys 75	23 75
		3 reaming irons 25, 50 c spikes 10	5 75
		19¾ caulk. 2 00 (25) 144 ft. timb. 4	45 26
	25.	12 wedges 6, 395 ft. plank 4½	18 49
		50 c spikes 10, 4 boys 75	8 00
		8 carp. 2 50, 10¼ caulk. 2 00	40 50
Nov.	26.	8 carp. 2 50, 36 wedges 6	22 16
		3 boys 75, 9½ caulk. 2	21 25
	27.	9½ carp. 2 50, 354 feet plank 4½	39 68
		100 c. spikes 10, 8 wedges at 6	10 48
		2 boys 75, 7 caulk. 2	15 50
	28.	240 ft. plank 4½, 40 c. iron 7	13 60
		50 lb. oakum 10, 84 c. paper 6	10 04
		3 barrels tar 4 00, drayage 38	12 38
		6 papers tacks 20, 2 mops 50	2 20
		2 boys 75, 6 caulk. 2	13 50
		8½ carp. 2 50, (29) 8 carp. 2 50	41 25
	29.	11 caulk. 2, drayage 75	22 75
		8 carp. 2 50, 150 lb. oakum	35 00
		10 reaming irons 25, 372 ft. pl. 4½	19 24
		4 boys 75, 150 c. paper 6	12 00
		3 papers tacks 20, 100 spikes 10	10 60
		4 mops 50, 12 caulk. 2	26 00
Dec.	2.	8 carp. 2 50, 44 lb. iron 7	23 08
		2 mops 50, 2 boys 75	2 50
		11 caulk. 2 (3), 8 carp. 2 50	42 00
	3.	1 spike punch 50, 8½ caulk. 2	17 50
		2 boys 75 (4), 8 carp. 2 50	21 50
	4.	10 caulk. 2 00, 2 boys 75	21 50
	5.	2 caulk. 2 00, 8 carp. 2 50	24 00
	6.	8 carp. 2 50, 75 feet timb. 4	23 00
		2 stages 50, 2 caulk. 2 00	5 00
	8.	7 carp. 2 50, 3 caulk. 2 00	23 50
		82 feet timb. 4, 3 stages, 50	4 78
	9.	8 carp. 2 50, 1000 feet timb. 4	60 00

		2 caulk. 2 00 (10), 11 carp. 2 50	31 50
Dec.	10.	12 c. spikes 10, 2 caulk. 2 00	5 20
		3 stages 50 (11), 11 carp. 2 50	29 00
	11.	151 lb. iron 7, 32 inches knees 60	29 77
		2 caulk. 2 00, 3 stages 50	5 50
	12.	11 carp. 2 50, 57 lb. iron 7	31 49
		2½ caulk. 2 00, 3 stages 50	6 50
	13.	11 carp. 2 50, 9 lb. spikes 10	28 40
		3 caulk. 2 00, 3 stages 50	7 50
	15.	11 carp. 2 50, 318 feet timb. 4	40 22
		11 lbs. iron 7, 3 stages 50	2 27
		3 caulk. 2 00 (16), 11 carp. 2 50	33 50
	16.	191 feet timb. 4, 3 lb. spikes, 10	7 94
		8 lbs. iron 7, 3 stages 50	2 06
		½ boy 75, 3 caulk. 2 00	6 37
	17.	11 carp. 2 50	27 50
		411 feet pl'k 4½, 35 lbs. iron 7	20 94
		121 feet timb. 4, 13 galls. pitch 25	8 09
		1 boy 75, 3 caulk. 2 00	6 75
	18.	11 carp. 2 50, 3 caulk. 2 00	33 50
		½ boy 75, 3 stages, 50	1 87
		49 c. spikes 10, 1100 feet p'lk 4½	54 40
	19.	11 carp. 2 50, 45 c. spikes 10	32 00
		15 feet pl'k 4½, ½ sawing 2 25	1 79
	20.	11 carp. 2 50, 1 caulk. 2 00	29 50
		56 lbs. oakum 10 (22d), 11 carp. 2 50	32 50
	22.	10 c. spikes 10, 4¼ caulk. 2 00	9 50
		3 stages 50, ½ boy 75	1 87
	23.	11 carp. 2 50, 90 feet timb. 6	31 10
		1½ caulk. 2 00, 32 lbs. iron 7	5 24
	24,	11 carp. 2 50, 23 lbs. iron 7	29 11
		928 feet pl'k 4½, 2 galls. pitch 25	42 26
		1 boy 75, 2¾ caulk. 2 00	6 25
	26.	11 carp. 2 50, 21 c. spikes 10	27 10
		5 caulk. 2 00, 1 boy 75	10 75
		50 lbs. oakum 10 (27), 10 carp. 2 50	30 00
	27.	5 caulk. 2 00, 1 boy 75	10 75
		5 lbs. iron 7, 185 feet pl'k 4½	8 67
		26 c. spikes 10 (29), 9¾ carp. 2 50	26 97
	29.	50 c. spikes 10, 18 lbs. iron 7	6 26
		5½ caulk. 2 00, 1 boy 75	11 75
		8 galls. pitch 25, 50 lbs. oakum 10	7 00
		4 stages 50 (30), 10 carp. 2 50	27 00
	30.	6 caulk. 2 00, 1 boy 75	12 75
		4 stages 50, 50 lbs. iron 7	5 50
		45 feet pl'k 4½, 28 inches knees 60	18 82
		2 galls. tar 25, 2 papers tacks 20	90

Dec.	31.	11 carp. 2 50, 123 lbs. iron 7	36 11
		54 c. spikes 10, 34 feet pl'k 4½	6 93
		7 caulk. 2 00, 1 boy 75	14 75
		3 galls. pitch 25, 3 stages 50	2 25
1857.			
Jan.	1.	678 feet timb. 4, 3 stages 50	28 62
		13¾ carp. 2 50, 7 caulk. 2 00	48 37
		1 boy 75, 66 lbs. iron 7	5 37
		3 galls. pitch 25, 482 feet timb. 4	20 03
	2.	14 carp. 2 50, 457 feet timb. 4	53 28
		38 feet pl'k 4½, 53 c. spikes 10	7 21
		6½ caulk. 2 00, 4 galls. pitch 25	14 00
		22 lbs. oakum 10, 3 stages 50	3 70
		1027 feet pl'k 2, hauling 1 37	21 91
		40 lbs. iron 7 (3), 14 carp. 2 50	37 80
	3.	649 feet timb. 4, 5 lbs. iron 7	26 31
		3¾ caulk. 2 00, 1 boy 75	8 25
		4 galls. pitch 25, 3 stages 50	2 50
	5.	13 carp. 2 50, 184 feet timb. 4	39 86
		84 feet pl'k 4½, 1 spike pinch 50	4 82
		2 galls. pitch 25, 1 stage 50	1 00
		1 boy 75, 1¾ caulk. 2 00	4 25
	6.	13 carp. 2 50, 80 feet pl'k 4½	36 10
		14 inches knees 60, 11 lbs. iron 7	9 17
		16 c. spikes 10 (7) 12 carp. 2 50	31 60
	7.	40 lbs. iron 7 (8), 3 carp. 2 50	10 30
	8.	129 feet timb. 4 (9), 9 carp. 2 50	27 60
	9.	42 lbs. iron 7 (10), 8 carp. 2 50	22 94
	10.	Drayage 25 (13), 7 carp. 2 50	17 75
	12.	159 feet timb. 4, 54 feet p'lk 4½	8 79
	13.	7 carp. 2 50, 1¼ caulk. 2 00	20 00
		8 lbs. oakum 10, 2 galls. pitch 25	1 30
	14.	7 carp. 2 50, 1¾ caulk. 2 00	21 00
		10 lbs. oakum 10 (15), 7 carp. 2 50	18 50
	15.	½ caulk. 2 00, 2½ galls. pitch 25	1 63
	16.	7 carp. 2 50, 2 lbs. nails 8	17 66
		220 feet pl'k 4½, 328 feet pl'k 4	23 02
		½ sawing 2 25 (17), 6 carp. 2 50	16 12
	17.	Hauling 50 (20), 8½ carp. 2 50	21 75
	21.	10 carp. 2 50; 62 lbs. iron 7	29 34
		4 c. spikes 10, 942 feet timb. 4	38 08
		Hauling 2 00 (22d), 4½ carp. 2 50	12 25
	23.	5½ carp. 2 50 (24), 4½ carp. 2 50	25 00
	24.	Hauling	75
	26.	3 carp. 2 50 (29th), 4½ carp. 2 50	18 75
	28.	2 carp. 2 50 (31), 1¼ carp. 2 50	8 12
	31.	10¼ carp. 2 50	25 62

Feb.	2. 4½ carp. 2 50 (3d), 1 carp. 250	13 75
	4. 1 carp. 2 50 (5) 1 carp. 2 50	5 00
		$2665 73
	Interest from 1st July, '57, to 27th Feb.	106 63
		$2762 36

Sworn to this 25th day of Feb. 1858, before me,
JOHN HANAN, U. S. Com'r for Md.

Plea, filed 16 *March*, 1858.

FLANNIGAIN and others,
vs.
ROBERT TURNER.

In the District Court of Maryland.

And now comes Robert Turner, and by way of plea and defence to the libel in this case filed against him as owner of the steamboat Susquehanna, says, that on the 10th day of March, 1857, he, the said Robert Turner, filed his bill of complaint against the said libellant and others, as joint owners and partners in the said steamboat Susquehanna, in the Circuit Court for Baltimore City, in the city of Baltimore, the residence of the libellants, said court being a court of equitable jurisdiction.

And he further says, that said libellants were summoned to answer said proceedings, and that they duly appeared to said suit, and on the 26th day of February, 1858, they filed their answer to said complaint, and said case between said Robert Turner and said libellants is still pending in said court undecided.

And said Turner further says, that by order of said court a receiver was appointed to take charge of and sell said steamboat Susquehanna, and bring the money into that court for distribution among the partners entitled. And the prayer of the said bill of complaint is, that the parties owning the said steamboat may contribute ratably to the expenses incurred on the said boat, and that there may be a general accounting and settlement of the partners touching the said steamboat. Wherefore the said Robert Turner, relying upon his plea aforesaid, submits to the court here that he is not bound in law to make further answer to the libel aforesaid, and that the same should be dismissed. All which matters and things he is ready to verify, &c. ROBERT TURNER.

On this 16th day of March, 1858, before me personally came Robert Turner, and made oath that the matters set forth in the foregoing plea are true as therein stated.

Sworn before JOHN HANAN, U. S. Com.

Order of Court, filed 31*st March*, 1858.

FLANNIGAIN and others
vs.
TURNER.

In the District Court of the United States for the Maryland District. March Term, 1858.

Ordered by the court this 31st day of March, 1858, that the plea to the jurisdiction filed in this case be, and the same is hereby, overruled, and the time for the respondent to answer is enlarged to the first day of the next term of this court; and that this case be continued to await the action of the Circuit Court for Baltimore City, in the case of Robert Turner *vs.* A. C. Hall and others, now pending in said court. WILLIAM F. GILES.

Plea, filed 28*th June*, 1858.

FLANNIGAIN and others
vs.
ROBERT TURNER.
In Admiralty.

To the Honorable William F. Giles.

The respondent, insisting that this court has not jurisdiction of this cause for the following reasons, to wit:—

First. Because together with the contract for repairs, and intermingled with it, is a contract for taking stock in the joint enterprise connected with said boat.

Second. Because the libellants were joint owners with others, including this respondent, in said boat while said repairs were being done and furnished.

Third. Because prior to the filing of the libel in this cause the Circuit Court of Baltimore City had taken and assumed jurisdiction over the said boat, and over these libellants as joint owners and partners in the same, which said suit is still pending, to which the said libellants are parties; one of the objects of said suit being to devote the proceeds of sale of said boat ratably among the parties who have claims for work and repairs done upon her. And the said Robert Turner, protesting and averring that he is not bound to answer the said libel, nevertheless, in obedience to the mandate of the court, files the annexed answer in the words following:—

Answer.

In Admiralty.

To the Honorable William F. Giles.

The answer of Robert Turner, the defendant, to the libel of Andrew Flannigain, John S. Beacham, and others, libellants.

This defendant protesting that the libellants have not the right in law to implead this defendant in this honorable court for the matters

in said libel contained, because, he says, and is ready to verify, that at the time the work and labor specified are alleged to have been done upon the steamboat Susquehanna by the libellants, they, the libellants, with others, were joint owners of the said steamboat; wherefore, not admitting the matters stated in said libel contained and alleged, this defendant says that this honorable court hath not jurisdiction of the said suit, and that this defendant is not bound in law to answer said libel.

This respondent answering says, that he is informed and believes that the libellants did work and furnished materials for the steamboat Susquehanna, but this respondent denies that the same were furnished or done at the instance and request of this respondent, or upon his credit as owner of said boat; and this respondent alleges that he has no knowledge of the amount or value of the work and materials so done and furnished by the libellants.

This respondent further answering, admits that at the time the work is alleged to have been done by the libellants he, this respondent, was a joint owner of said boat, together with Silas Beacham, A. C. Hall, Edward S. Lamdin, Daniel McCahan, George Beatty, and others, including the libellants, and that the work and labor done upon said boat was done for the joint benefit of all concerned.

And this respondent further answering says, that some time in the autumn of the year 1857, it was deemed desirable to have in the harbor of the city of Baltimore a steam tow and ice boat, and to carry out their project, a large number of the merchants and trading men of Baltimore, and among others the libellants, united in a scheme for purchasing the steamboat Susquehanna, and proceeded to repair and make her suitable for the enterprise. That said libellants, or some of them, took an active interest in the proceedings, attended a meeting or meetings of the owners, and participated in the work and business of the joint enterprise, and this respondent files herewith as part of his answer, a paper marked Exhibit No. 1, which is a true copy of the original paper signed by the libellants setting forth the schemes and object of the joint enterprise.

And this respondent further answering says, that on or about the 10th day of March, in the year 1857 (the said joint owners being then in possession of said steamboat), it having been ascertained that the enterprise of making the said steamboat a tow and ice boat on the harbor of Baltimore was unprofitable to the said owners, and the said owners being responsible for moneys which had been expended for repairs, and to fit the said boat for the purpose intended, a suit was commenced by this respondent in the Circuit Court for Baltimore city, against these libellants and the other joint owners, in order that the affairs of the partnership in said boat might be adjusted and settled between the respective parties, and that the partnership property, to wit, the steamboat aforesaid, might be sold, and the proceeds applied to the claims against the boat and her owners, and

that said suit is now pending in said court undecided, of all which the libellant has notice.

And this respondent alleges that he is advised that said libellants can properly avail of all their legal rights touching the steamboat Susquehanna and owners in the said Circuit Court, which is a court of equity where matters of this sort are properly cognizable. Wherefore the respondent prays that this honorable court will pronounce against the demand of the libellants in their aforesaid libel mentioned and set forth, with costs.

BENJ'N C. BARROLL,
Proctor for Respondent.

District of Maryland, set.

Before me, the subscriber, on this 28th day of June, 1858, personally appeared Robert Turner, who being by me first duly sworn, made oath that the matters stated in the foregoing answer are true to the best of his knowledge and belief.

Sworn before me, M. W. MEARIS, J. P.

Paper No 1, *referred to in the Answer.*

The undersigned merchants, shippers, and business men of the city of Baltimore, in view of the necessity of keeping open the harbor of said city from the obstructions of ice, and also in or to assist vessels of heavy draught, unable to reach the city with full cargoes, as well as to render relief to vessels in distress or otherwise needing either a lighter or a tow-boat, do hereby promise and agree each to the other, and to each and all whose names are hereunto subscribed, to pay the sum or sums affixed to our several names, for the purpose of purchasing and fitting the steamboat Susquehanna, of 385 horse power, registering about 500 tons, and of six thousand barrels capacity on deck, as a general steam tow-boat, lighter, and ice boat, to be employed for the purposes herein before expressed; and it is hereby also agreed by and between the undersigned that the capital of $25,000, the requisite purchase money of, and expenditures on said steamboat, shall be deemed to be a capital stock, and be divided into shares of $100 each, and that the sum or sums respectively subscribed by us shall be represented by, and be understood to mean the equivalent thereof, in the shares of said capital stock.

Robert Turner,	$1500	Slack & Browne,	$500
A. C. Hall,	1000	Sterling & Ahrens,	100
Edward S. Lamden	500	A. R. Wallace,	200
Daniel McCahan,	100	Silas Beacham,	200
Loane & Crookshanks,	200	D. Q. Fowler,	200
George Beatty,	200	Fitzgerald, Booth & Co.,	1000
Hugh Bolton & Co.,	200	C. S. Maltby,	1000
Wells & Miller,	500	R. B. Porter,	100
A. Flannigain & Co.,	500	C. R. Pearce,	100
Wier, Long, Cope & Co.,	300	Tho. N. Watts,	500
Edw'd Mitchell & Co.,	200	H. F. Jackson,	500

F. W. Brune & Sons,	$500	C. Morton Stewart,	$100
John M. Bondel,	100	P. Malcolm & Co.,	100
Jas. A. Hooper,	100	Walter & Harvey,	300
C. O. O'Donnel,	100	Levering & Co.,	100
C. H. Ross & Co.,	100	James Westcott,	100
Spence & Reid,	100	Samuel Johnson,	100
E. L. Parker & Co,,	200	John T. Fardy & Bro.,	100

Motion to Dismiss the Libel, 8 Sept., 1858.

FLANNIGAIN & others
vs.
ROBERT TURNER.

In the District Court of the U. S., Md. Dist.

To the Hon. William F. Giles:—

The respondent moves the court to annul its order of March 31st, 1858, and to dismiss the libel filed in this cause, for want of jurisdiction.

BENJ'N C. BARROLL,
Proctor for Respondent.

Endorsed: Motion overruled.

17 Sept., 1858. WILLIAM F. GILES.

Bill of Sale.

Know all men by these presents, that I, Samuel M. Felton, President of the Philadelphia, Wilmington, and Baltimore Railroad Company, for and in consideration of the sum of four thousand dollars to me in hand paid by Robert Turner, of Baltimore, State of Maryland, the receipt whereof is hereby acknowledged, have, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the said Robert Turner the whole of the steamboat Susquehanna, of Baltimore, Md., together with her machinery, engines, boilers, masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and furniture, which said vessel is enrolled in the port of Havre de Grace, Maryland, in the words following, to wit:—

District and Port of Havre de Grace, Md.

(Custom House. Sign, John A. Chew.)

No. 15. "Enrolment in conformity to an act of the Congress of the United States of America, entitled 'Act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same.'"

Samuel M. Felton, of the city of Philadelphia, and State of Pennsylvania, having taken or subscribed the oath required by the said act, and having sworn that he is the President of the Philadelphia, Wilmington, and Baltimore Railroad Company, who are citizens of the United States, sole owners of the ship or vessel called the Susquehanna, of Baltimore, whereof Moses Galloway is at present Master,

and as he hath sworn, is a citizen of the United States, and that the said ship or vessel was built in Baltimore, in the year eighteen hundred and thirty-seven, as appears by a certificate of enrolment, No. 156, granted at the port of Baltimore, on the 23d of October, 1838, agreeable to an act of Congress passed July, 7th, 1838, and said certificate having certified that the said ship or vessel has one deck and no mast, and that her length is one hundred and fifty-two feet ten inches, her breadth thirty-two feet two inches, her depth ten feet one inch; and that she measures four hundred and fifty-three $\frac{8}{95}$ tons, that she is a steamboat, has a square stern, no galleries, and no figure head. And the said Samuel M. Felton having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said steamboat has been duly enrolled at the port of Havre de Grace, Md.

Given under my hand and seal, at the port of Havre de Grace, Md., this twenty-first day of October, in the year one thousand eight hundred and fifty-two.

To have and to hold the said steamboat Susquehanna, with her machinery, engines, boilers, and appurtenances, unto the said Robert Turner, his executors, administrators, and assigns forever. And I, the said Samuel M. Felton, President of the Philadelphia, Wilmington, and Baltimore Railroad Company, for said company and their successors, do hereby covenant and agree to, and with the said Robert Turner, his executors, administrators, and assigns, that at the execution of these presents, the Philadelphia, Wilmington, and Baltimore Railroad Company are the true and lawful owners of the said steamboat Susquehanna and appurtenances, and now have full right and authority to sell and dispose of the same freed from and cleared of all claims, incumbrances, or demands whatsoever.

In testimony whereof I, Samuel M. Felton, President of the Philadelphia, Wilmington, and Baltimore Railroad Company, have set my hand and caused the common seal of the company to be affixed and attested by the secretary, this seventh day of November, in the year of our Lord one thousand eight hundred and fifty-six.

[SEAL.] S. M. FELTON, President.

Attest, A. HORNER, Secretary.

Custom House, Baltimore, Collector's Office, 11 Dec'r, 1858.

True copy. Test,

JNO. THOMPSON,
MASON COLER.

Recorded 17 Jan'y, 1857.

Enrolment.

No. 8. Eight. Enrolment, in conformity to an act of the Congress of the United States of America, entitled "An act for the enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

Robert Turner, of Baltimore, State of Maryland, having taken or subscribed the oath required by the said act, and having sworn that he is a citizen of the United States, sole owner of the ship or vessel called the "Susquehanna," of Baltimore, whereof Thomas M. Watts is at present master, and, as he hath sworn, is a citizen of the United States; and that the said ship or vessel was built in Baltimore, State aforesaid, in the year eighteen hundred and thirty-seven, 1837, as appears by a certificate of enrolment No. 15, granted at the port of Havre de Grace, the 21st day of October, 1852, now surrendered, ownership changed. And said certificate having certified that the said ship or vessel has one deck, and no masts; and that her length is one hundred and fifty-two feet ten inches, her breadth thirty-two feet two inches, her depth ten feet one inch, and that she measures four hundred and fifty-three tons and $\frac{6}{95}$ parts of a ton. That she is a steamboat, has a square stern, no galleries, and no figure head. And the said Robert Turner having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said steamboat has been duly enrolled at the port of Baltimore.

Given under our hands and seals, at the port of Baltimore, this seventeenth day of January, in the year one thousand eight hundred and fifty-seven (1857).

Collector's Office, Baltimore, Dec'r 16, 1858.

I hereby certify that the above is a true copy taken from the records of this office, of enrolment No. 8, issued at this office on the 17th January, 1857, to the steamboat Susquehanna, of Baltimore.

Given under my hand and official seal of the custom-house, in Baltimore, the date above writen.

[SEAL.] J. S. OWINS, Dep. Col.

Decree.

ANDREW FLANNIGAIN, JOHN S. BEACHAM, GEORGE P. BEACHAM, LENOX BEACHAM, and SAMUEL BEACHAM,
vs.
ROBERT TURNER.

In the District Court of the United States for the District of Maryland.

This cause standing ready for hearing, the libel and answer were read, and the proofs and arguments of the proctors for the respective parties were heard, and the proceedings considered. It is thereupon, this fourth day of January, A. D. 1859, by William F. Giles, judge, and by the authority of this court, adjudged, ordered, and decreed that the defendant pay to the libellants, the sum of twenty-

six thousand and sixty-five dollars and seventy-three cents, with interest from the first day of July, A. D. 1857, and costs.

WILLIAM F. GILES.

Order to enter Appeal.

FLANNIGAIN and others
vs.
ROBERT TURNER.

In District Court U. S.

Mr. Spicer, enter appeal from the decree in this case.

BENJ'N C. BARROLL,
Proctor for Respondent.

Agreement.

FLANNIGAIN
vs.
TURNER.

On Appeal to Circuit Court.

It is agreed that the record in the case of Turner *vs.* Hall et al., in the Circuit Court of Baltimore City, shall be excluded by the clerk of the District Court in making up his record on the appeal. The libellants to use said record on the trial of the appeal if he so pleases, to avail to all legal intent as if embodied in the record from the District Court. BENJ'N C. BARROLL, for Rob. Turner.
WM. B. PERINE, for Flannigain & Co.

Appeal Bond.

Know all men by these presents, that we, Robert Turner, Samuel J. Pentz, and Jonathan Turner, are held and firmly bound unto Andrew Flannigain, John S. Beacham, George P. Beacham, Lenox Beacham, and Samuel Beacham, partners, trading under the style and firm of A. Flannigain & Company, in the just and full sum of six thousand dollars, well and truly to be paid to them, to which payment well and truly to be made, we bind ourselves and our heirs, jointly and severally firmly by these presents, sealed with our seals, and dated this tenth day of January, one thousand eight hundred and fifty-nine.

Whereas, in the District Court of the United States for the District of Maryland, the court passed a decree in favor of Andrew Flannigain, John S. George, P. Lenox, and Samuel Beacham, partners, trading under the firm and style of A. Flannigain & Company, and against Robert Turner, for the sum of two thousand six hundred and sixty-five dollars and seventy-three cents, with interest from the first day of July, one thousand eight hundred and fifty-seven, and costs.

And whereas, the said Robert Turner hath prayed an appeal to the Circuit Court of the United States, from the decree aforesaid. Now the condition of the foregoing obligation is such that if the

said Robert Turner shall prosecute with effect his said appeal in said Circuit Court, or shall well and punctually pay any sum of money the said Circuit Court shall order and decree against him in the premises, and all costs and charges which accrue to said Flannigain & Company by reason of said appeal, then this bond to be null and void, otherwise to be and remain in full force and effect.

Witness, ROBERT TURNER, [SEAL.]
SAM'L J. PENTZ, [SEAL.]
JONATHAN TURNER. [SEAL.]

Bond approved 14th January, 1859.

WILLIAM F. GILES.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the District Court aforesaid, I hereunto subscribe my name and affix the seal of the said District Court, this twenty-fourth day of January, in the year of our Lord one thousand eight hundred and fifty-nine.

[SEAL.] THO. SPICER, Clerk Dist. Ct.

Appellees' Exhibit.

Record from the Circuit Court for Baltimore City.

State of Maryland, City of Baltimore, set.

At a session of the Circuit Court for Baltimore City, in the Fifth Judicial Circuit of the State of Maryland, begun and held at the court-house in and for the city aforesaid, on the second Monday in September, being the thirteenth day of *of* the same month, in the year of our Lord one thousand eight hundred and fifty-eight.

Were present, The Hon. William George Krebs, Judge; Thomas Creamer, Esquire, Sheriff; William H. H. Turner, Clerk.

Among other were the following proceedings, to wit:—

ROBERT TURNER

vs.

A. C. Hall, David McCahan, D. Q. Fowler, Richard B. Fitzgerald, Washington Booth, C. S. Maltby, Henry F. Jackson, William Crichton, John T. Fardy, M. I. Fardy, Edward S. Lamdin, Hugh Bolton, Edward Mitchell, George Beatty, Stirling and Ahrens, James Westcott, Samuel Johnson, A. R. Wallace, Charles R. Pearce, C. Oliver O'Donnell, Charles H. Ross, Levering, Walter & Harvey, Charles Morton Stewart, John W. Bandel, E. L. Parker, James A. Hooper, William W. Spence and Reid, F. W. Brune, John C. Brune and William H. Brune, John C. Slack and Browne, Thomas M. Watts, Robert B. Porter, Silas Beacham, Robert Wier and William Longcope, Andrew Flannigain, John S. Beacham, George P. Beacham, Samuel Beacham and Lenox Beacham, John Wells and William Miller, Joseph Loane and Charles S. Crookshanks, and Richard H. Atwell.

Be it remembered, that heretofore, to wit, on the tenth day of

March, in the year of our Lord eighteen hundred and fifty-seven, came Robert Turner into the Circuit Court for Baltimore City here, by Benjamin C. Barroll and Orville Horwitz, Esquires, his solicitors, and exhibited his bill of complaint in form following, to wit:—

Bill of Complaint.

To the Hon. Wm. George Krebs, Judge of the Circuit Court for Baltimore City.

The bill of complaint of Robert Turner, of the city of Baltimore, respectfully shows—

That having become the owner of the steamboat Susquehanna, some time during the past winter, and being deeply interested, in common with other merchants and business men of the city of Baltimore, in opening and keeping open the harbor of said city (which at that time was completely obstructed by ice), he conceived the idea of applying the steamboat to said purpose.

He further shows that he paid for the said steamboat the sum of four thousand dollars, and that in order to fit out and adapt the said steamboat to the purposes aforesaid, it was necessary to expend a large sum of money in preparing her for the duties she would have to perform as an ice-breaker and tow boat; that he was unwilling to lay out and expend the said sum from his own personal means, both on account of the largeness of the amount required for the purpose, and the uncertainty of the result of the enterprise to be tried.

He further shows that it was supposed at that time that the requisite "purchase money of" and the "expenditures" to be laid out on said steamer would not exceed the sum of twenty-five thousand dollars.

And your orator further shows that under these circumstances, and with these views, he applied to the parties following, that is to say, to A. C. Hall, Edward S. Lamdin, David McCahan, Loane & Crookshanks, George Beatty, Hugh Bolton & Company, Wells & Miller, Andrew Flannigain & Company, Wier & Longcope & Company, Edward Mitchell & Company, Slack & Browne, Stirling & Ahrens, A. R. Wallace, Silas Beacham, D. Q. Fowler, Fitzgerald & Booth & Company, C. S. Maltby, R. B. Porter, Charles R. Pearce, Thomas M. Watts, Henry F. Jackson, Frederick W. Brune & Sons, John M. Bandel, James A. Hooper, C. O. O'Donnell, Charles H. Ross & Company, R. H. Atwell, Spence & Reid, E. L. Parker & Co., Charles Morton Stewart, P. Malcolm & Co., Walter L. Harvey, Levering & Company, James Westcott, Samuel Johnson, John T. Fardy & Brother, to aid and assist in the said undertaking; that the said parties agreed to unite with your orator in the purchase and fitting out of said boat, and to become jointly interested with him in various proportions in the said enterprise, and to that end entered into and executed the articles of agreement herewith filed, and

marked complainant's Exhibit A, and prayed to be taken as part of this, his bill of complaint; and upon the signatures now thereunto attached, and the amount subscribed as now appears, it was agreed and understood that the same should be considered final and binding, and that the repairs and alterations should be made.

Your orator further shows that, relying upon the said agreement, and upon the promise and undertaking of the said parties above named, he proceeded to have the same carried out in good faith, and directed such repairs and alterations to be made in and upon said steamer as would fit her for the service intended; that the said repairs and alterations so made amounted to a large sum of money, to wit, the sum of about twelve thousand two hundred and sixty-two $\frac{73}{100}$ dollars; that further relying on said mutual undertaking and co-partnership agreement, he paid out of his private means towards the said repairs and alterations, the large sum of four thousand dollars; and that he has thereby laid out and expended from his own priv..te means, for the benefit of said parties, the sum of about two thousand five hundred dollars, including the said cost of the said vessel, over and above the amount agreed by him to be contributed, as will appear by said agreement.

Your orator further shows, that a large amount of said subscriptions has been contributed by some of the persons and firms above named towards the general fund, that is to say, the sum of seven thousand dollars.

And he further shows, that he has applied from time to time to the other persons and firms who subscribed their names to said agreement, that is to say, to the persons and firms following, that is to say, to the said A. C. Hall, David McCahan, D. Q. Fowler, Fitzgerald and Booth & Co., C. S. Maltby, Henry F. Jackson, William Crichton, trading as P. Malcolm & Co., James Westcott, Samuel Johnson and John T. Fardy and Fardy, trading as Fardy & Brother, to contribute and pay their just proportions of the said sums of money expended by your orator, and of the said bids due on account of said repairs and of the original purchase money of said steamer; but now, so it is, may it please your honor, that the said last named persons and firms utterly refuse to comply with their said agreement and undertaking, and have not as yet contributed one cent towards the said expenditures and payments, except the said A. C. Hall, who has paid the sum of $500 on account of his subscription to the amount of $1,000.

And he further shows that the said steamer is lying at the wharf of the said city of Baltimore, and is daily deteriorating in value, and incurring large and ruinous expenses; that she is not fitted for a tow boat by reason of insufficiency of motive power, and that the season for using the same as an ice-boat is past, and unless by the intervention of this court will, if suffered to remain in her present condition, become worthless to all the parties in interest. He represents that under existing circumstances, as above set forth, he has

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no power or authority to control, or turn to advantage, the property so jointly owned as aforesaid, without incurring great personal risk and responsibility, and that the said steamboat requires the control and management of some person having authority to act for all concerned.

He further shows that the said copartnership is virtually dissolved; that the object of the association has failed, and that the boat is worthless to said partnership in her present condition.

He shows that the said property is liable to be proceeded against by reason of said indebtedness and sacrificed, and that it is for the interest of all the parties that the same should be sold, and the proceeds applied in the first place towards the payment of the said indebtedness, and the refunding your orator the amount expended by him as aforesaid.

Wherefore, inasmuch as your orator is remediless at law, and to the end that the said A. C. Hall, David McCahan, D. Q. Fowler, Fitzgerald, and Booth, C. S. Maltby, Henry F. Jackson, William Crichton, James Westcott, Samuel Johnson, John T. Fardy, and Fardy, may answer the premises fully and particularly; that a receiver may be appointed to take charge and control of said steamer, with her appurtenances and tackle, and, if need be, to sell her, and that said parties last named may be required to bring into this court, to be deposited to the credit of this cause, their respective shares and contributions as aforesaid, and to comply specifically with the said contract and agreement; that an account of the said partnership affairs may be taken under the direction of this court, and that its effects may be applied to the payment of its debts and liabilities, and the residue thereof distributed among its copartners, and that your orator may have such further and other as his case may require.

May it please your honor to grant unto your orator the State of Maryland writ of subpœna, directed to the said parties last named, commanding and directing them on a day certain to be therein named, to appear in this court and answer the premises, and to appoint a receiver to take charge of the said property, and to pass a decree directing the payment of the said sums of money, and the specific performance of the said contract, and such other and further relief as your orator may be entitled to.

BENJ'N C. BARROLL,
ORVILLE HORWITZ,
Sol'rs for Compl't.

State of Maryland, city of Baltimore, sct.

Be it remembered, that on this tenth day of March, A. D. 1857, in open court personally appears Robert Turner, and made oath on the Holy Evangely of Almighty God that the matters and things stated in the foregoing bill are true, to the best of his knowledge and belief. WM. H. H. TURNER, Cl'k.

Exhibit referred to in the foregoing bill of complaint is as follows, to wit:—

The undersigned, merchants, shippers and business men of the city of Baltimore, in view of the necessity of keeping open the harbor of said city from the obstructions of ice, and also, in order to assist vessels of heavy draught unable to reach the city with full cargoes, as well as to render relief to vessels in distress, or otherwise needing either a lighter or tow-boat, do hereby promise and agree each to the other, and to each and all whose names are hereunto subscribed, to pay the sum or sums affixed to our several names for the purpose of purchasing and fitting the steamboat Susquehanna, of 385 horse power, registering about 500 tons, and of six thousand barrels capacity in deck, as a general steam tow-boat, lighter and ice-boat, to be employed for the purposes hereinbefore expressed; and it is hereby also agreed by and between the undersigned that the capital of $25,000, the requisite purchase-money of and expenditures on said steamboat, shall be deemed to be a capital stock, and be divided into shares of $100 each, and that the sum or sums respectively subscribed by us shall be represented by and be understood to mean the equivalent thereof in the shares of said capital stock.

Robert Turner,	$1500	C. R. Pearce,	100
A. C. Hall,	1000	Thos. M. Watts,	500
Edward S. Lamdin,	500	H. F. Jackson,	500
David McCahen,	100	F. W. Brune & Sons,	500
Loane & Crookshanks,	200	John M. Bandel,	100
George Beatty,	200	Jas. A. Hooper,	100
Hugh Ballon & Co.,	200	C. Oliver O'Donnell,	100
Wells & Miller,	500	C. H. Ross & Co.,	100
A. Flannigain & Co.,	500	R. H. Atwell,	100
Weir, Long, Cope & Co.,	300	Spence & Reid,	100
Edward Mitchell & Co.,	200	E. L. Parker & Co.,	200
Slack & Browne,	500	C. Morton Stewart,	100
Stirling & Ahrens,	100	P. Malcolm & Co.,	100
A. R. Wallace,	200	Walter & Harvey,	300
Silas Beacham,	200	Levering & Co.,	100
D. Q. Fowler,	200	James Westcott,	100
Fitzgerald, Booth & Co.,	1000	Samuel Johnson,	100
C. S. Maltby,	1000	John T. Fardy & Bro.,	100
R. B. Porter,	100		

Which being read and heard, the court passed the following order, to wit:—

Order.

ROBERT TURNER
vs.
A. C. HALL et al.

In the Circuit Court for Baltimore City.

On the foregoing bill and exhibit it is ordered that Orville Horwitz be and he is hereby appointed a receiver, with power and authority to take charge and possession of the steamboat Susquehanna and the property named in said bill. And it is further ordered that before the said Orville Horwitz proceeds to act as receiver by virtue of this order, he shall give bond to the State of Maryland in the penalty of twenty-five thousand dollars, with a surety to be approved by the said court, and conditioned for the faithful performance of the trust reposed in him by this order or which may be reposed in him by any future decree or order in the premises.

WM. G. KREBS.

Whereupon issued subpœna as prayed in form following, to wit:—

Subpœna.

The State of Maryland.

To A. C. Hall, D. Q. Fowler, Fitzgerald & Booth, C. S. Maltby, Henry F. Jackson, William Crichton, John T. Fardy and Fardy of Baltimore city, greeting:—

We command and enjoin you that, all excuses set aside, you be in your person before the Judge of the Circuit Court for Baltimore city, at the court-house in said city, on the second Monday of May next, to answer the complaint of Robert Turner against you in the said court exhibited. Hereof fail not, as you will answer the contrary at your peril. Witness the Honorable William George Krebs, judge of our said court, the 9th day of March, 1857. Issued the 10th day of March, Anno Domini 1857.

[SEAL.]

W. H. H. TURNER, Clerk.

And the sheriff of Baltimore city, to whom the said subpœna was delivered to be served, made return thereof to the court here thus endorsed, to wit:—

Sheriff's Return.

Summoned, omnes, C. H. Pitts, Esq., and Wallis & Thomas, to appear for Jno. T. Fardy and M. J. Fardy, and Fitzgerald & Booth.

SAMUEL S. GASKINS, Sheriff.

Afterwards, to wit, on the eleventh day of March, in the year aforesaid, Orville Horwitz, receiver as aforesaid, filed in court here his bond as such, in form following, to wit:—

Receiver's Bond.

Know all men by these presents, that we, Orville Horwitz and

Robert Turner, are held and firmly bound unto the State of Maryland, in the full and just sum of twenty-five thousand dollars, to be paid to the said State, or its certain attorney, to which payment well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 10th day of March, in the year 1857.

Whereas, by an order of the Circuit Court for Baltimore City, passed in a cause wherein Robert Turner is complainant, and A. C. Hall and others are defendants, the above bound Orville Horwitz has been appointed receiver, to take charge of the property and effects in the proceedings in said cause mentioned, and to hold the same subject to the directions of said court.

Now the condition of this obligation is such, that if the said Orville Horwitz do and shall perform, to the best of his skill and judgment, the duties of the trust reposed in him by the said order, and all other duties that may devolve upon him by any future order or decree passed in said cause, then this obligation to be void, otherwise of full force and virtue in law.

ORVILLE HORWITZ, [SEAL.]
ROBERT TURNER. [SEAL.]

Signed, sealed and delivered in presence of
J. J. STEWART, Jr., as to O. H.,

In presence of
O. HORWITZ, as to Robert Turner.

Which said bond is thus endorsed, to wit: I believe the within bond sufficient. W. H. H. TURNER, Clerk.

"Bond approved. WM. GEO. KREBS."

And afterwards, to wit, on the thirteenth day of May, in the year aforesaid, appeared in court here the said William Crichton, by James Malcolm, Esquire, his solicitor, and the said John T. Fardy and M. J. Fardy, R. B. Fitzgerald, and Washington Booth, by Charles H. Pitts, S. Teackle Wallis, and John H. Thomas, Esquires, their solicitors.

And afterwards, to wit, on the twenty-second day of May, in the year aforesaid, appeared in court here the said C. S. Maltby, by John H. B. Latrobe, Esquire, his solicitor; and afterwards, to wit, on the twenty-eighth day of May, in the year aforesaid, the receiver aforesaid filed in court here in said cause the following report, to wit:—

Receiver's Report.

TURNER
vs.
HALL et al.

To the Honorable Wm. George Krebs, Judge of the Circuit Court for Baltimore City.

The report of Orville Horwitz, receiver, respectfully reports, that he has obtained possession of the steamboat Susquehanna, and placed her in charge of a watchman; that large expenses are daily incurred in reference to said steamer, and that she is depreciating in value. He further shows, that from want of motive power she cannot be used as a tow-boat, and that the season for employing her as an ice-boat has passed, so that she cannot be profitably employed. He also shows that the bill was filed on 11th March, and that all the defendants have been returned summoned, and no answer has as yet been filed. He therefore shows that it would be most for the benefit of all concerned that the said steamboat should be sold at public auction, and on reasonable terms as to credits.

All which is respectfully submitted, &c.

ORVILLE HORWITZ.

State of Maryland, city of Baltimore, sct.

Be it remembered, that on this 28th day of May, A. D. 1857, personally appeared in open court the within named Orville Horwitz, and made affirmation in due form of law that the matters and things stated in the foregoing report are true to the best of his knowledge and belief. W. H. H. TURNER, Clerk.

Which being read and heard, the court passed the following order, to wit:—

Order of Court.

TURNER
vs.
HALL, &c.

In the Circuit Court for Baltimore City.

Ordered on the foregoing petition, this 28th day of May, 1857, that the within named steamboat Susquehanna be sold by the receiver at public auction to the highest bidder, upon giving notice at least three times a week, for two weeks, in two of the daily papers published in the city of Baltimore, and twice a week, for two weeks, in one of the daily papers published in the cities of New York and Philadelphia, of the time, place, and terms of sale, which shall be one-half for cash, and the residue in two equal instalments, at three and six months from the day of sale, the credit payments to be on interest, and to be secured by promissory notes endorsed to the satisfaction of the said receiver. WM. GEO. KREBS.

And afterwards, to wit, on the twenty-ninth day of May, in the year aforesaid, R. B. Fitzgerald and Washington Booth appeared in court here by S. Teackle Wallis and John H. Thomas, Esquires, their solicitors, and the said case so standing was continued until the second Monday in July then next.

At which said second Monday in July, to wit, in the year aforesaid, come again into court here, the parties aforesaid, by the solicitors aforesaid; and afterwards, to wit, on the fourteenth day of July, in the year last aforesaid, the said complainant, by Benjamin C. Barroll, Esquire, his solicitor, filed in court here in said cause the following petition:—

Petition.

ROBERT TURNER
vs.
A. C. HALL et al.

In the Circuit Court for Baltimore City.

The petition of Robert Turner respectfully shows to your Honor that he has discovered that he has omitted to make certain persons parties defendants to this cause who should have been so made, in order that full relief may be granted to him in the premises; and he therefore prays that your Honor will grant him leave to amend his bill by adding thereto such parties as he may deem necessary and proper. And as in duty, &c.

BENJ. C. BARROLL, Sol. for Compl't.

Which being read and heard the court here passed the following order, to wit:—

Ordered that the complainant have leave to amend as above prayed.

July 14, 1857. W. G. KREBS.

And thereupon the said complainant, by his solicitor aforesaid, filed in court here in said cause the following amended bill of complaint, to wit:—

Amended Bill, 14th July, 1857.

To the Honorable Wm. Geo. Krebs, judge of the Circuit Court of Baltimore City.

The amended bill of complaint of Robert Turner, of Baltimore City, humbly shows, that he heretofore filed his bill of complaint in this court against A. C. Hill, D. Q. Fowler, and others, which said bill he reaffirms, and prays may be had, taken, and considered as part of this amended bill, as if incorporated herein.

And your orator shows that in his original bill he averred, and does aver, that a certain steamboat called the Susquehanna was purchased and fitted up as an ice and tow boat, in the manner therein set forth, and that to fit her for such purpose certain repairs were

done upon said steamboat at large cost, and that said steamboat was owned by the parties in said bill named, for mutual profit and advantage, as joint owners and partners; and in said bill it is alleged that certain parties, the defendants in that case, have refused to pay certain sums of money which they had engaged and promised to pay, to carry out and make profitable the joint enterprise in which they had embarked.

And now, so it is, your orator shows to your honor that he has discovered that the remaining parties to the contract and agreement, filed in the suit as originally brought, who were not parties thereto, should have been made parties, to wit: Loane, and Crookshanks, partners, trading as Loane & Crookshanks, John Wills, and Miller, partners, trading as Wills & Miller, And. Flannigain and John Beacham, trading as Andrew Flannigain & Company, Wier and Longcope, partners, trading as Wier, Longcope & Company, Silas Beacham, Robert B. Porter, Thomas M. Watts, Frederick W. Brune, John C. Brune, and William H. Brune, partners, trading as F. W. Brune & Sons, Richard H. Atwell, Wm. W. Spence and Reid, partners, trading as Spence & Reid, C. Oliver O'Donnell, James A. Hooper, E. L. Parker, John M. Bandel, Charles M. Stewart, Walters and Harvey, partners, trading as Walters & Harvey, Levering, trading as Levering & Company, Charles H. Ross, trading as Charles H. Ross & Company, C. Oliver O'Donnell, Charles R. Pearce, A. R. Wallace, Samuel Johnson, James Westcott, Stirling and Ahrens, partners, trading as Stirling & Ahrens, Edward Mitchell, George Beatty, Hugh Bolton, and Edward S. Lamdin. To the end, therefore, that parties to the original bill may answer as well the original bill as the matters of this amended bill, and that the persons herein made parties may do likewise, and that your orator may have such relief against them as is prayed by his original bill, and all such other and further relief as his case may require.

May it please your honor to grant unto your orator the writ of subpœna directed to the aforesaid parties, to wit: Edward S. Lamdin, Hugh Bolton, Edward Mitchell, George Beatty, Stirling & Ahrens, James Westcott, Samuel Johnson, A. R. Wallace, Charles R. Pearce, C. O. O'Donnell, Charles H. Ross, Levering, Walters & Harvey, Charles M. Stewart, John M. Bandel, E. L. Parker, James A. Hooper, Spence & Reid, F. W. Brune, John C. Slack, and Browne, Brune, and to W. H. Brune, Thomas M. Watts, Robert B. Porter, Silas Beacham, Wier & Longcope, Andrew Flannigain and John Beacham, John Wells and Miller, Loane & Crookshanks, and Richard Atwell, commanding them to be and appear in this court to answer the premises, to fulfil and abide by any decree which may be passed. And your complainant prays for all such relief as his case may require, and as to equity may.

BENJ. C. BARROLL, Sol'r for Compl't.

Whereupon issued subpœna as prayed in form following, to wit:—

Subpœna.

The State of Maryland.

To Hugh Bolton, Edward S. Lamdin, Edward Mitchell, George Beatty, Stirling & Ahrens, James Westcott, Samuel Johnson, A. R. Wallace, Charles R. Pearce, C. O. O'Donnell, Charles H. [SEAL.] Ross, Levering, Walters & Harvey, Charles M. Stewart, John M. Bandel, E. L. Parker, James A. Hooper, Spence & Reid, F. W. Brune, Stack & Browne, John C. Brune, and William H. Brune, Thomas M. Watts, Robert B. Porter, Silas Beacham, Wier & Longcope, Andrew Flannigain & John Beacham, John Wells and Miller, Loane & Crookshanks, and Richard H. Atwell, of Baltimore City, greeting:—

We command and enjoin you that, all excuses set aside, you be in your person before the judge of the Circuit Court for Baltimore City, at the court-house in said city, on the second Monday of September next, to answer the complaint of Robert Turner against you in the said court exhibited. Hereof fail not, as you will answer the contrary at your peril. Witness the Honorable William George Krebs, judge of our said court, the 13th day of July, 1857.

Issued the 14th day of July, 1857.

W. H. H. TURNER, Clerk.

Sheriff's Return.

And the sheriff of Baltimore city, to whom the said subpœna was delivered to be served, made return thereof to the court here thus endorsed, to wit: "Summoned omnes, Hugh Bolton, Edward Mitchell, Stirling and Ahrens, James Westcott, A. R. Wallace, Charles R. Pearce, C. O. O'Donnell, Charles H. Ross, Levering, Walters and Harvey, Charles M. Stewart, John M. Bandell, E. L. Parker, Spence and Reid, W. H. Brune, Slack and Browne, Robert B. Porter, Silas Beacham, Wier and Longcope, John Wells and Miller, Richard H. Atwell."

"Non sunt, Edward S. Lamdin, George Beatty, Samuel Johnson, James A. Hooper, Thomas M. Watts, Andrew Flannigain, John Beacham, Loane and Crookshanks, F. W. Brune, John C. Brune.

SAML. S. GASKINS, Sh'ff."

Whereupon appeared in court here the said F. W. Brune and Sons, by Brown and Brune, Esquires, their solicitors; the said Stirling and Ahrens, by L. F. Barry, Esquire, their solicitor; the said C. O. O'Donnell and C. M. Stewart, by David and John Stewart, Esquires, their solicitors; the said Wells and Miller, by Samuel H. Tagart and I. Nevitt Steele, Esquires, their solicitors; and the said James Westcott, by Wm. I. Waters, Esquire, his solicitors.

And afterwards, to wit, on the eighteenth day of September, in

the year aforesaid, subpœna was renewed in form following, to wit:—

Subpœna.

The State of Maryland, to Edward S. Lamdin, George Beatty, Samuel Johnson, James A. Hooper, Thomas M. Watts, Andrew Flannigain, John Beacham, Loane and Crookshanks, F. W. Brune, John C. Brune, of Baltimore city, greeting:—

We command and enjoin you, that all excuses set aside, you be in your person before the Judge of the Circuit Court for Baltimore city, at the court-house in said city, on the second Monday of November next, to answer the complaint of Robert Turner against you in the said court exhibited. Hereof fail not, as you will answer the contrary at your peril.

Witness the Honorable William George Krebs, Judge of our said court, the 14th day of September, 1857.

Issued 15th day of September, 1857.

[SEAL.] W. H. H. TURNER, Clerk.

Sheriff's Return.

And the sheriff of Baltimore city, to whom the said last or foregoing subpœna was directed to be served, made return thereof to the court here thus endorsed, to wit:—

"Summoned Edward S. Lamdin, non sunt the residue.

SAML. S. GASKINS, Sheriff."

And afterwards, to wit, on the twenty-second day of September, in the year aforesaid, the said Hugh Bolton appeared in court here, by William B. Perine, Esquire, his solicitor; and afterwards, to wit, on the twenty-eighth day of September, in the year aforesaid, the said Silas Beacham, Robert Wier, and William Longcope, appeared in court here, by John Carson, Esquire, their solicitor; and afterwards, to wit, on the thirtieth day of November, in the year aforesaid, the said John Wells and William Miller, by their solicitors aforesaid, filed in said court their joint and several answer to the foregoing bill of complaint in form following, to wit:—

Answer of Wells and Miller.

The joint and several answer of John Wells and William Miller, trading under the firm of Wells and Miller, to the original and amended bills of complaint of Robert Turner against them and A. C. Hall and others, exhibited in the Circuit Court for Baltimore city.

These respondents reserving to themselves all manner of exception to the manifest errors and imperfections in said bill contained, for answer thereunto, or unto so much thereof as they are advised that it is material and necessary to answer, say: That they believe it to be true, and therefore admit, that the complainant was, as stated in

said bill, the owner of the steamboat Susquehanna; and in confirmation thereof, they further state, that by the order of said complainant, and upon his credit, they made extensive repairs to the boilers and machinery of said vessel, and he has paid them a part of their bill therefor: further answering, they say that they have no knowledge of the terms upon which complainant purchased the said steamboat, but they have heard it said, that the price which he gave for her was four thousand dollars.

And these respondents further answering, positively deny that they ever signed the subscription paper filed with the bill as Exhibit A, or that they ever authorized any person to sign it for them, or sanctioned the putting of their name to the paper after it was done; and they further deny that said paper was ever presented to them for their signature, or that they ever agreed or understood, that the said paper should be considered final and binding as it then stood, and that the alterations and repairs to which it refers should be made, and on the contrary, state that they never had any agreement or understanding with any body on that subject.

And these respondents admit, that repairs to a considerable amount were put on the said steamboat by the complainant, or upon his order, but these respondents do not know the cost of said repairs (except of such as were made by their own firm), nor do they know, and therefore they cannot admit, that the complainant in causing said repairs to be made, acted on the faith of, and in reliance upon the paper above mentioned, exhibited with the bill, or the alleged and understanding that the same should be considered binding and final; but they positively state for themselves, that they never entered into any such agreement with the complainant as the bill alleges, and treated with him as the sole owner of said steamer, in making the repairs to her machinery, which were ordered by him.

And your respondents admit, that they have never contributed anything for the purpose of purchasing said boat of the complainant or paying for the repairs that were put upon her, and they deny that they are in any shape liable to be called upon for such contribution, and as they never entered into any co-partnership with the complainant and others in reference to said boat, they deny that any dissolution of such alleged co-partnership has taken place as stated in said bill.

And these respondents further state, that complainant's Exhibit A, represents the said steamer Susquehanna as of $385 horse power, and expressly fixes $25,000 as the amount of money to be subscribed for her purchase and the expenditure to be made upon her, and they are informed and believe, and so state, that the said steamer was in fact of less than 200 horse power, and that little more than one-half of said sum of $25,000 was ever subscribed, and they are advised and so charge, that even if they had signed the said paper (complainant's Exhibit A), no claim founded on it could be enforced against by the complainant, because of said misrepresentation as to the power

of the steamer, and because of the failure to obtain subscriptions to the requisite and stipulated amount of $25,000.

These respondents further answering, say, that they have no knowledge whether the sum of money stated in said bill to have been paid and contributed by a portion of the alleged signers of the Exhibit A, have in fact been paid, nor to whom they have been paid, and they therefore leave the complainant to such proof of said payments and contributions, as is usual and proper; and they further say, that while they are ignorant of what rights or interests others may have acquired in said steamer by such alleged payments and contributions, they answer for themselves, that they had no interest in her which would exclude or interfere with the power of him, complainant, to control and manage her, or which would render necessary the appointment of a receiver for the purpose of taking charge of her; that they were neither joint owners nor partners with others in the ownership of said steamer, and that they had no interest in her of any kind or description, unless the fact the several thousand dollars of their bill for repairs to her machinery, made by order of the complainant, are still due, may be supposed to give them an interest in the proceeds of her sale.

And these respondents, having answered all the matters stated and charged in said bill which it was material for them to answer, pray that they may be hence discharged with their costs, most unjustly sustained in the premises, and they will ever pray, &c.

STEELE & TAGGART,
Solc'rs for Respondents.

State of Maryland, City of Baltimore, to wit:—

On this seventh day of November, 1857, personally appeared before the subscriber, a Justice of the Peace for the city aforesaid, the above named John Wells and William Miller, and make oath that the matters stated in the foregoing answer are true to the best of their knowledge and belief.

Sworn before EDW. G. STARR.

And afterwards, to wit, on the eighteenth day of November, in the year aforesaid, Hugh Bolton, Glendy Stewart and James T. Bolton, by William B. Perine, Esquire, their solicitor, filed in court here their joint and several answer to the bill of complaint aforesaid, in form following, to wit:—

Answer of Hugh Bolton & Co. 18 *Nov.* 1857.

The joint and several answer of Hugh Bolton, Glendy Stewart, and James T. Bolton, trading under the firm of Hugh Bolton & Co., to the bill of complaint, filed against them and others, as well original as amended, by Robert Turner, in the Circuit Court for Baltimore City:—

These respondents, answering, say that they are willing to admit

that Robert Turner, the complainant, was the owner of the steamboat Susquehanna, as stated in said bill, but they do not know what amount he paid therefor, although they have heard he did pay for said boat the sum of four thousand dollars, as he alleges.

Further answering, these respondents say that they admit they signed, at the request of the complainant, and in their said partnership name, the paper marked Complainant's Exhibit A, and are now, and always have been willing to incur and have all the obligations which legally belong to them from their said signature and the circumstances connected with said paper, and to submit the true interpretation thereof and of their said obligations to this court.

Further answering, these respondents deny that there was any agreement or understanding upon the part of these respondents in reference to said steamboat, save only so far as the same may be derived from the terms of said paper.

These respondents admit that repairs to a considerable amount were done to said steamer by the complainant, or by his order, and they allege that they furnished to the complainant, with a view to such repairs, oils and paints, between the 19th November, 1856, and the 17th January, 1857, to the extent of $113 19, which amount is due and unpaid, with interest; but as to the full extent of the repairs and alterations alleged to have been done by complainant to said steamer, these respondents know not, and cannot admit the same. They are willing to admit that the complainant in doing said repairs relied upon said paper, since he so alleges, but they deny that he had any right so to rely, for these respondents expressly charge that by the terms of said paper it was understood, and so expressed, that the whole amount of the capital of $25,000 should be subscribed and paid before any purchase of a boat, or any repairs or alterations should be made.

And they expressly deny that said understanding was ever waived by these respondents; and they deny also that upon the signatures now attached thereto, which amount to not half that sum, it was ever agreed or understood by these respondents that the same should be considered final and binding, and that the repairs and alterations should be made as the complainant alleges. These respondents therefore charge that the failure to obtain subscriptions to the full amount of the capital, threw upon the complainant himself the responsibility of all expenses or outlays arising from the purchase, repairs and alterations done to said steamer, and the materials furnished her by the complainant, or by other persons through his orders or at his request.

And they further charge that said paper A represents (and said complainant represented to these respondents at the time of applying for their signature thereto) that the said steamer Susquehanna, which had before that time become the property of the complainant, was of the capacity of 385 horse power, whereas these respondents have been since informed, and now believe, that her capacity was

not over 100 horse power; and they charge that by reason of said misrepresentation they are not responsible for the execution of the terms of said paper. And they deny all allegations of partnership, and necessarily of dissolution of a partnership which they charge never had existence.

And further answering they say, that upon the 8th of January, 1857, they were requested by an agent of said Turner to pay their said subscription of two hundred dollars, and these respondents believing that said Turner had acted fairly in the premises, and had complied with all his obligations, and had made no misrepresentations, to the contrary of all which they have since learned and charges, they upon that day paid the said Turner, by his agent aforesaid, the said sum of two hundred dollars, and which amount they charge they have a right now to recover from, and to be reimbursed by said Turner.

And they further charge, that for the materials furnished by them as aforesaid, they also have a right to receive from said Turner, because the same was furnished upon the basis of the belief on their part that said steamer was of the power so represented by the complainant, and that said Turner had complied with all the preliminaries, and all his obligations under said paper.

And as to all the other matters and things stated in said bill, these respondents deny the same, and put the complainant to the proof thereof. And they pray to be dismissed with their costs in this behalf unjustly sustained; and they, &c.

WM. B. PERINE,
Sol'c'r for Respondents.

State of Maryland, Baltimore City, sct.

On this 17th day of November, 1857, before the subscriber, a justice of the peace of said State in and for said city, personally appeared Hugh Bolton, Glendy Stuart, and James T. Bolton, and made oath in due form of law, that the matters and things in the foregoing answer are true to the best of their knowledge and belief.

Sworn before GEORGE W. KING.

Afterwards, to wit, on the seventh day of December, in the year aforesaid, the said Silas Beacham, by his solicitor aforesaid, filed in court here, in said cause, his separate answer to the bill of complaint of complainant aforesaid, in form following, to wit:—

Answer of Silas Beacham.

To the Honorable William George Krebs, Judge of the Circuit Court for Baltimore City.

The separate answer of Silas Beacham to the bill of complaint of Robert Turner against this respondent and others in your honorable court exhibited.

This respondent, saving to himself all benefit of exception whether

for form or substance to said bill of complaint both original and amended, or answer thereto, or to so much thereof as he is advised is necessary or material for him to answer saith, that he utterly denies that he agreed to unite with the complainant in the purchase and fitting out of said steamboat, and to become interested in said enterprise in any proportion whatever; and he further denies that he even entered into, or executed the article of agreement marked "Complainant's Exhibit A," or that he even authorized any person to sign said agreement for him, and that the pretended signature of this respondent to said paper was ever made by him, or by his consent or authority.

And further answering this respondent expressly denies that he ever agreed or understood that upon the signatures now attached to said "Exhibit A," and the amounts there subscribed, that the same should be considered as binding and final, and that the repairs and alterations (mentioned in complainant's bill) should be made.

This respondent admits that he did verbally agree with one Luke League, who was the agent of complainant, to procure subscriptions to "Exhibit A;" that he would take two shares of stock in the then proposed company, provided this respondent did all the shipsmith's work on said steamboat (your respondent then and now doing business as a shipsmith); that said Luke League did not ask respondent to sign "Exhibit A," but agreed to the proposition made by this respondent, but this respondent distinctly avers that said League did not give all the shipsmith's work on said boat to respondent, but procured a large portion thereof to be done by Wells & Miller, whereby, as your respondent then thought, and now submits, that he was entirely released from his said verbal agreement to take two shares of stock in said proposed company.

And this respondent further states, that during said interview between himself and said League, that said League represented to him that the power and capacity of said steamboat Susquehanna was as is set forth in said "Exhibit," and that the capital stock of said company was to be $25,000 as therein stated, in shares of one hundred dollars each, that said capital stock was required to pay for the boat and her repairs, and that with the repairs put upon her said capital stock and *and* would permit and justify; that said steamboat would be an efficient tow-boat, and would be amply able to keep the harbor of Baltimore open for the passage of all vessels during the severest winter.

That relying upon these representations, your respondent made the conditional verbal agreement to take stock in said company that he has above stated, and that subsequently, without the knowledge and consent of this respondent, the said League signed his name to said paper for two shares, of which signature your respondent was not aware until a long time afterwards.

This respondent further answering says, that he admits that said complainant on the 7th day of November, A. D. 1856, did purchase

the steamboat Susquehanna and paid for her the amount stated in his said bill of complaint, but he denies that complainant became the owner of her during the past winter, or noticed the harbor of the port of Baltimore was obstructed by ice.

And further answering this respondent denies that he was ever applied to by said complainant or any other person to become interested in said steamboat, otherwise than as a stockholder in the company which was then proposed to be got up to purchase the said boat from said complainant; and avers that he was never applied to to become interested in his individual capacity in said boat as a joint owner thereof, nor did he ever have anything to do with the repairs and fitting out of said steamboat, excepting to perform certain work and furnish certain materials for said boat as he was directed to do by Mr. League, who was Mr. Turner's agent in the premises; and that no agreement or understanding in reference to the repairs of said boat was ever made by said Turner or his agent with this respondent, saving only the repairs which were done and furnished by respondent as aforesaid.

And further answering this respondent admits that said complainant has paid out moneys for the repairs of said boat, of the amount whereof your respondent is ignorant, and therefore neither admits nor denies the allegation of the complainant in this behalf, but leaves the same to be established by proof.

And further answering respondent admits that large repairs have been done to said steamboat, amounting as your respondent believes to some twelve thousand dollars or thereabouts, but this respondent insists that said repairs and alterations were done and furnished by the direction and request alone of said complainant; and respondent insists that said repairs were begun as soon as said complainant bought said steamboat, that the larger portion thereof was contracted for by said Turner before most of said subscriptions were obtained, and were almost entirely completed before the 27th day of January, A. D. 1857, when for the first time said subscribers were called together by said Turner, never having been previously any meeting, and being then called together (the boat being then about completed) to form a company. That this meeting no effort was made to organize a company permanently, because not one half of the capital stock of said company was then subscribed, nor has any effort been since made to organize it, nor has capital stock or even the half of it ever been subscribed.

And further answering your respondent denies that said complainant paid out $4000, relying on said partnership, but avers that said sum was the original purchase-money of said boat, paid by complainant before said "Exhibit A" was in existence or intended.

And for further answer this respondent states that soon after this meeting it was discovered by actual trials of said boat that she was utterly inefficient and worthless as a tow and ice-boat, after all her repairs and alterations, because of her want of motive power; and

that the representation of her horse-power contained in Exhibit A represented by said League to this respondent and others was grossly untrue, and that she only had one hundred and five horse power; upon the discovery of these facts, and that the effort to make said boat a tow and ice-boat was impracticable and useless, the whole scheme to get up said company proved abortive and entirely failed.

And this respondent further answering says, that he admits that he refused to pay his said conditional subscription, and that he still refuses to pay it, because he did not think that he was bound either morally or legally to pay the same, and he submits to this court whether the facts above stated do not release this respondent wholly from said conditional subscription.

And this respondent prays that he may be hence dismissed with his costs. SILAS BEACHAM.

JOHN CARSON, Solicitor for Respondent.

State of Maryland, Baltimore City, to wit:—

On this 10th day of November, A. D. 1857, before the subscriber, a justice of the peace of said State in and for said city, personally appeared Silas Beacham, and made oath in due form of law that the matters and facts stated in the aforegoing answer as of his own knowledge are true, and that those stated as of the knowledge and information of others he believes to be true.

Sworn before SAM'L M. LAWDOR.

And afterwards, to wit, on the eighteenth day of December, in the year aforesaid, the said Robert Wier, William Longcope and James G. Ramsay, by John Carson, Esquire, their solicitor, filed in court here in said cause their separate answer to the bill of complaint aforesaid, in form following, to wit:—

Answer of Wier, Longcope & Co., 18th December, 1857.

To the Honorable William George Krebs, Judge of the Circuit Court for Baltimore city: The separate answer of Robert Wier, Wm. Longcope and James G. Ramsay of Baltimore city, and copartners trading thereat under the name and firm of Wier, Longcope & Co., to the bill of complaint of Robert Turner, against these respondents exhibited.

These respondents, saving to themselves all benefit of exception, whether for form or substance, to said bill of complaint, both original and amended, for answer thereto, or to so much thereof as they are advised is necessary or material for them to answer, say—

That they admit they entered into and signed the agreement mentioned in complainant's bill, marked "Exhibit A," but they aver that the same was done by them upon the condition and after the representations made to them as hereinafter stated. These respondents insist that, as a part of said subscription, it was mutually agreed between Luke League, the agent of said complainant, and your

respondents, that they should furnish to said steamboat, which said League then represented to your respondents as having been bought and owned by said complainant, whatever was needed by her that your respondents could furnish in their line of business, which was then as now that of ship chandlers; that upon this condition, and after the representation to them hereafter mentioned, your respondents signed said "Exhibit A," and that without said condition had been agreed to by complainant's agent, your respondents would not have signed or entered into the same.

And respondents further state, that before they entered into and signed said exhibit said League represented to them that the object of said subscriptions was to get sufficient stock taken so as to form a company, who should purchase said steamboat of complainant, who was then having her repaired and fitted out, and that said boat was to be made an efficient ice and tow boat, capable of keeping the harbor of Baltimore open to the approach of vessels, whatever might be the thickness of the ice therein; that relying upon the representations, and supposing them to be made in good faith, and relying also upon the statements contained in Exhibit A as to the horse power and capacity of said boat, your respondents signed said exhibit.

And these respondents further answering say, that they expressly deny that they agreed with the complainant to unite with him in the purchase and fitting out of said steamboat, or to become interested in said enterprise otherwise or to any other extent than is shown in said Exhibit A, and then only under the representations made by said League; and expressly do they deny (the inferential allegation of said bill) that ever they were applied to by complainant to unite with him in the original purchase of said boat. And your respondents aver that said boat was originally purchased by said complainant, and was his exclusive property, and paid for by him alone, and that some time after said purchase (which your respondents allege was on the 7th day of November, 1856), and after said complainant had begun to repair said boat, were efforts made by complainant and his said agent, League, to get up a company to purchase said boat of complainant, and of stockholders in this proposed company, your respondents deny that they were ever applied to to become interested in said boat either by complainant or any person.

And further answering these respondents state, that they are informed and believe that said complainant and his said agent, League, have contracted heavy bills for repairs done and supplies furnished to said steamboat, amounting, as your respondents are informed, to some twelve thousand dollars or thereabouts, but these respondents deny that they, or either of them, directly or indirectly, authorized or sanctioned said repairs, and they further deny that there was at any time any understanding or agreement had or made between them and said complainant, or his said agent, as to the repairs or alterations on said boat, excepting the agreement made with your respondents by said League, in pursuance of which your respondents aver

that during the month of December, 1856, and January and February, 1857, they did furnish to said boat, at the instance of said League, various articles and supplies to the amount of $460 73, and that the same was furnished upon the exclusive credit of said Turner, and are now due and unpaid, and that your respondents hold the said Turner liable therefor.

And further answering, these respondents deny most expressly "that upon the signatures now attached thereto, and *and* the amounts subscribed" (on Exhibit A), as now appears, it was agreed and understood that the same should be considered binding and final, and that the repairs and alterations should be made; on the contrary, your respondents aver that no such agreement or understanding was ever had or made with them, and they distinctly aver that they signed "Exhibit A" with the assurance made them by said League that in the event either of a failure to get up said company, or of said boat's not proving after her repairs to be a good and efficient ice and tow boat, the said subscription of your respondents was not to be binding upon them, and they also aver that there was no such agreement, either express or implied, ever made between themselves and said complainant or his said agent that said repairs and alterations to said boat should be made.

And further answering these respondents aver, that the allegation of said complainant that he relied upon Exhibit A in making and ordering said repairs and alterations is not true, and they here state and allege, for they are so informed and believe, that said repairs and alterations were begun as soon as the boat was brought to Baltimore, and before the project of getting up a stock company was started; that the contracts for said repairs and alterations were really all given out by said Turner or his said agent before most of the signatures on Exhibit A were obtained, and at a period so early that but very few of the subscriptions now on said Exhibit A had been placed there, and when it was impossible to determine what amount of capital stock would be subscribed; and your respondents further state, for they are so informed and believe, that said repairs and alterations were ordered, supervised, and directed exclusively by said Turner or his said agent, League, without consultation with said subscribers, and without their co-operation, nor were they ever called together or informed what amount of stock was taken until the repairs and alterations on said boat were completed.

And further answering, these respondents deny that there was any copartnership between them and the other subscribers on Exhibit A, as alleged in complainant's bill, but insist that it was well understood that if said company had been got up, it was to have been incorporated, so that the stockholders thereof should not be liable in their individual capacity.

And your respondents further deny that said complainant relied upon any such supposed partnership and therefore paid out four thousand dollars, and insists that said sums so paid by complainant

was the original purchase money paid by him for said boat, before the scheme to get up a company was started or heard of; they admit that said Turner has paid out moneys on account of the repairs of said boat, and that many of the bills for repairs are still due and unpaid, but as your respondents know not the amounts so paid or now remaining due, they neither admit nor deny the allegations in this behalf of the complainant, but leave the same to be established by proof; but your respondents submit that whatever bills of repairs have been paid by said Turner, that the same were so paid by him because they had been contracted by him, and he was legally bound to pay the same.

And further answering, your respondents admit that said boat has not motive power either for an ice or tow boat, but your respondents allege that at the time they signed Exhibit A, they had no knowledge of the motive power of said boat, other than what they derived from said exhibit, in which said boat was represented as having 385 horse-power; and your respondents now allege, for so they have lately been informed, and believe that said boat had not, nor has she ever had over 105 actual horse-power, and that the allegation of her horse-power in Exhibit A, was a gross falsehood, whereby your respondents were deceived and misled, and their subscription thereby obtained.

And further answering, your respondents state that they have refused, and still do refuse, to pay their subscription aforesaid, because they are advised that the said subscription is not binding upon them, by reason of the misrepresentation and *and* deception aforesaid through which it was obtained, and because they are further advised that if it had not been procured through misrepresentation and deception, yet they are relieved from the same, because the capital stock of said company proposed as aforesaid, nor one-half thereof was ever subscribed, and because the scheme to get up said company proved abortive, and said boat proved to be wholly inefficient and useless, either as an ice or tow boat.

And your respondents having fully answered all the allegations in said bill of complaint, and not having or claiming any interest in or control over said boat, and having done nothing to interfere with said Turner's power and control over said boat, pray that they may be hence dismissed with their costs in this behalf sustained.

WIER, LONGCOPE & CO.
JOHN CARSON, Sol'r for Resp'd'ts.

State of Maryland, Baltimore City, to wit:—

On this tenth day of December, A. D. 1857, before the subscriber, a justice of the peace of said State, in and for said city, personally appeared Robert Wier, William Longcope, and James G. Ramsay, and severally made oath in due form of law, that the matters and facts stated in the foregoing answer, as of their own knowledge,

are true, and that those that are stated as of the knowledge and information of others, they believe to be true.

Sworn before THOS. W. GRIFFIN, J. P.

And afterwards, to wit, on the nineteenth day of December, in the year aforesaid, James Westcott, by his solicitor aforesaid, filed in court here in said cause, his separate answer to the bill of complaint in form following, to wit:—

Answer of James Westcott.

The separate answer of James Westcott to the bill of complaint, original and amended, filed against him and others in the Circuit Court for Baltimore City, by Robert Turner.

This defendant answering said bill, says that he is willing to admit that Robert Turner was the owner of the steamboat Susquehanna, as is stated in the bill of complaint, but he does not know, and does not admit or deny the amount that was given for her, which is stated in the bill.

This defendant admits that, at the instance of a certain Luke League, who was the agent of Robert Turner, he signed his name to the agreement exhibited with the bill; that he signed it under the impression induced by said League and the paper itself, that it would be of no binding force unless the full sum of$25,000 should be subscribed, and that the steamboat was of the capacity and description named in the said paper, and could *and could* be made, by the expenditure of the amount named, adequate to the purpose of keeping open the harbor of Baltimore during the winter. But this defendant avers that within forty-eight hours after his signature was placed upon the paper, he becoming convinced that his course had been injudicious in signing said paper, he sought the said Luke League and asked that his name should be erased therefrom; that the said League promised him that his request should be complied with, and that he would see Robert Turner and have his name so erased. That subsequent to this time he saw the said League who informed this defendant that he had seen Robert Turner, and that with his, the said Robert's consent, his name had been erased, and that this defendant remained under the impression until the subpœna was served on him in this cause.

This defendant denies that by any contract or action on his part has he made himself responsible for any repair or purchase money for said steamer, or for any expenses in reference to her, beyond what he here sets forth in this his answer. And that for this reason the said Robert Turner could not relied upon this defendant in any expenditure made by him upon the said steamer.

This defendant denies that he ever became a partner with said Robert Turner and others, as stated in the bill. He avers that he does not know what expenses has been incurred, repairs or otherwise, upon said steamer *upon said steamer*. That he does not know how

much had been paid by Robert Turner, nor how much remained to be paid.

He admits that he has never paid any part of the money subscribed by him, because he did not consider that he owed the same. This defendant denies that he ever was part owner, or partner in the ownership of said steamer.

This defendant submits to the court the true construction of the agreement filed with the complainant's bill, and avers that by the true construction thereof no party thereto was bound thereby until the sum of $25,000 was subscribed, and that that sum never has been subscribed, and he denies that he ever, subsequent to the signing the said agreement, consented that the same should become final as is stated in the bill.

This defendant further avers that it was represented to him by the said agent of said Turner, and the contract exhibited itself with the bill represents that the said steamer Susquehanna, which had before this time become the property of the complainant, was of the capacity of 385 horse power, whereas this defendant has been since informed and now believes that her capacity was not over one hundred horse power, and he charges that by reason of said misrepresentation he is not responsible for the amount subscribed by him.

And as to all other matters and things stated in said bill, and not specifically herein answered, this defendant denies the same and puts the complainant to the proof thereof.

And he prays to be dismissed with his costs and charges, and he will ever pray, &c. JAS. WESTCOTT.

State of Maryland, Baltimore City, to wit.

On this fifteenth day of December, 1857, before me, the subscriber, a justice of the peace of said State in and for said city, personally appeared James Westcott, and made oath in due form of law that the matters and things stated in the aforegoing answer as of his own knowledge are true, and those things stated as of the knowledge and information of others he believes to be true.

M. W. MEARIS, J. P.

And the said cause so standing was continued until the second Monday of January then next.

At which said second Monday in January, to wit, in the year of our Lord eighteen hundred and fifty-eight, come again into court here the parties as aforesaid by their solicitors aforesaid.

And afterwards, to wit, on the twenty-sixth day of February, in the year last aforesaid, the following agreement was filed in said court, to wit:—

Agreement.

TURNER
vs.
HALL.

In the Circuit Court for Baltimore City, January Term, 1858.

The bill in this case having been filed against the partnership firm, among others of A. Flannigain & Co., and having alleged that said firm consists of Andrew Flannigain and John S. Beacham, and the firm consisting in point of fact, as well at the time of filing said bill as at present, of said Flannigain and Beacham, together with George P. Beacham, Lenox Beacham, and Samuel Beacham, and all of the members of said firm being now ready to file their answer to said bill concerning the matters therein alleged, it is agreed that said last named George, Samuel, and Lenox, shall come on as party defendants, as if they had been regularly made parties to the bill, and shall forthwith file their answer as such.

BENJ'N C. BARROLL,
For Compl't.

W. B. PERINE,
For Andrew Flannigain, Jno. S. Beacham, Lenox Beacham, and Samuel Beacham.

And afterwards, to wit, on the same 25th day of February, in the year last aforesaid, the said Andrew Flannigain, John S. Beacham, George P. Beacham, Samuel Beacham, and Lenox Beacham, appeared in court here by William B. Perine, Esquire, their solicitor, and filed in said cause their joint and separate answer to the bill of complaint aforesaid, in form following, to wit:—

Answer of Andrew Flannigain, John S. Beacham, George P. Beacham, Samuel Beacham, and Lenox Beacham.

The joint and separate answer of Andrew Flannigain, John S. Beacham, George P. Beacham, Samuel Beacham, and Lenox Beacham, trading under the firm of A. Flannigain & Co., to the bill of complaint, as well original as amended, filed against them and others in the Circuit Court for Baltimore City.

These respondents answering, say, that they are willing to admit that Robert Turner, the complainant, was the owner of the steamboat Susquehanna, as stated in his bill of complaint, and they charge that he became the owner on or before November, 1856; they do not know what amount he paid therefor, although they have been informed he did pay for said boat, by way of purchase money, the sum of four thousand dollars, as he alleges. And in corroboration of such ownership, these respondents allege that at the request and upon the credit of the complainant, they made expensive repairs to said steamer, as ship carpenters and builders, between the 20th day of November, 1856, and the 5th day of February, 1857, amounting

to the sum of $2665 73, and which work, labor and materials were useful and necessary for said vessel, and for her safety and navigation on the high seas.

Further answering, these respondents deny that they or either of them ever signed the paper purporting to be a subscription agreement, marked complainant's Exhibit A, and filed with said bill, and they deny that they or either of them authorized any one to sign it for them, or adopted said signature, when made, nor did they ever agree or understand that said paper, as it then stood, should be considered final and binding, and that the alterations to which it refers should be made. On the contrary, they expressly charge that they never had any agreement or understanding with anybody on that subject. These respondents admit that repairs to a considerable amount were done to said steamer by the complainant, or by his order, but as to the full extent of the repairs and alterations alleged to have been done by complainant to said steamer, these respondents know not, and cannot admit the same, nor do they know nor admit that the complainant, in causing said repairs to be made, acted on the faith of, or in reliance upon said subscription paper, or upon the alleged agreement that the same should be considered final and binding; on the contrary, these respondents have been informed and believe, and so charge, that said repairs were begun as soon as a few days after said complainant bought said steamer, and independent of said paper, and before the same was prepared, or any agreement to subscribe in manner alleged had been made by anybody, and upon his own credit and responsibility. And they charge that the repairs done by the defendants to said steamer were done for the complainant, and on his own account, and it was not till on or about the 15th of January, 1857, that these respondents had any knowledge of any subscription paper being in existence.

And these respondents admit that they have never contributed anything for the purchase or repairs of said boat, and they deny that they are, or can be responsible for any such contribution, and deny moreover all and every allegation of the complainant of an existing partnership, and consequently of the necessity of a dissolution thereof.

Further answering, these respondents allege, that upon the complainant's own showing he is not entitled to the relief prayed for, or to any relief whatever against the respondents, and especially against these defendants, because that, as these respondents charge, the said subscription paper was prepared by said Turner, and represents said steamer to be of 385 horse power, and price $25,000, as the sum to be subscribed for her purchase, and the expenditures to be made upon her, whereas, as these respondents have been recently informed and believe, and therefore so charge, her capacity was not, and is not over 100 horse power, which the said Turner always well knew, and, in addition thereto, scarcely one-half of said capital sum ever was in point of fact subscribed.

Further answering, these respondents say, that they do not know, and therefore cannot admit, that the sums of money stated by complainant to have been paid by way of contribution by a part of the alleged signers of said paper have been paid, nor to whom. And they further charge that they neither have now, nor have they ever claimed, nor do they now claim any interest in said boat, so far as an interest, if any may be derivable from the fact of these respondents having furnished the work, labor and materials and repairs above mentioned to said Turner for said boat, at his request, and upon his credit, and as to a special and particular account of said materials, work and repairs, these respondents are ready to produce the same, whenever your honor shall so require, and which, when produced, they pray to be taken as part of this their answer to the complainant's bill.

And these respondents further charge, that they have been informed and believe, and also have always supposed, that said steamer, the Susquehanna, has always been, since the purchase thereof by said Turner, and especially at the time of filing this bill, was in the possession and under the sole power and control of the complainant, and these respondents being, as they allege, neither joint owners nor partners, nor subscribers for the fitting up thereof, there never was, nor is there now any good ground for the appointment of a receiver for the purposes contemplated by said bill; and if there be any other matter or thing charged in said bill, and not herein specifically answered, these respondents deny the same, and put the complainant to the proof thereof. And they pray to be dismissed with their costs in this behalf most unjustly sustained.

WM. B. PERINE, for Def'ts.

State of Maryland, Baltimore City, sct.

On this 26th day of February, 1858, before the subscriber, a Justice of the Peace of said State, in and for said city, personally appeared Andrew Flannigain, John S. Beacham, Lenox Beacham, George P. Beacham, and Samuel Beacham, and make oath in due form of law, that the foregoing answer is true to the best of their knowledge, information and belief. DAN'L E. MYERS.

And the said cause so standing was further continued until the second Monday in March then next. At which said second Monday of March, to wit, in the year last aforesaid, come again into the court here the parties aforesaid, by their solicitors aforesaid. And afterwards, to wit, on the twenty-fifth day of March, in the year last aforesaid, the said Charles Morton Stewart, by John Stewart, Esquire, his solicitor, filed in said cause his answer to the bill of complaint aforesaid in form following, to wit:—

Answer of C. M. Stewart.

To the Honorable William Geore Krebs, Judge of the Circuit Court for Baltimore City.

The answer of Charles Morton Stewart to the original and amended bill of Robert Turner against him and others in this court exhibited. This defendant admits that he signed the paper writing filed with complainant's bill, and marked complainant's Exhibit "A," but he denies that the same was for any other contribution, or with any other view than can be deduced from a fair and proper construction of the paper writing aforesaid. He believes, and therefore charges, that the said paper writing was an inchoate contract until the subscription list thereto attached embraced the sum of $25,000; and he is informed, and believes, and therefore charges, that the whole amount subscribed was $11,800. He denies, that in attaching his name to the paper writing in question, he had in contemplation a copartnership, as alleged in said bill or complaint, but to the contrary thereof he avers that it was his impression that upon the whole amount being subscribed further acts would be necessary before the enterprise in said paper writing referred to could be fairly inaugurated.

He believes, and therefore charges, that the steamboat Susquehanna was totally unfit for the purpose to which she was to have been dedicated under the terms of the paper writing in question, inasmuch as her motive power was two-thirds less than that ascribed to her by the said complainant, or his agent, in the paper writing aforesaid.

This respondent, further answering, neither admits nor denies that the said complainant has expended large sums of money in and upon the steamboat in question, but if the same were so expended he denies they were thus expended for account or for the benefit of this respondent and his codefendants, but to the contrary thereof he charges that the said steamboat, as he is informed and believes, was the property of the said complainant, and that he was individually liable for the payment of the same.

He, further answering, denies the allegation in said bill of complaint that he hath not paid the sum subscribed by him, but to the contrary thereof charges that he has paid the same, and that the said payment was made under the impression that all the provisions of the said paper writing were to be complied with, that the steamboat was sufficient for the purpose of the projected enterprise, and that the sum of $25,000 would be subscribed, but he charges that the said steamboat was not of the power and capacity, as he is informed and believes, represented, that the said sum of $25,000 was not subscribed, and that the said sum by him thus paid was paid in error, and without a valuable consideration, and that the said complainant is in equity and good conscience bound to repay him the same.

He, further answering, neither admits nor denies the other allegations of said bill of complaint, but leaves the same to proof.

And this respondent denies all and all manner of interest in the said steamboat, except to the extent of one hundred dollars, which, having been wrongfully received by the complainant, should be reimbursed by him to this defendant, or should constitute a lien upon the said steamboat, which he charges is the property of the complainant, and has been by him brought within the jurisdiction of this honorable court.

And this defendant prays that this honorable court will decree the repayment to this defendant of one hundred dollars out of the proceeds of the sale of the said steamboat, and that this defendant may be hence dismissed with his costs in this behalf most wrongfully sustained. And as in duty, &c., he will ever pray, &c.

JOHN STEWART, Sol. for C. M. S.

And afterwards, to wit, on the same twenty-fifth day of March, the said Charles Oliver O'Donnell, by John Stewart, Esquire, his solicitor, filed in said cause his answer to the bills of complaint aforesaid in form following, to wit:—

Answer of Charles O. O'Donnell.

To the Honorable William George Krebs, judge of the Circuit Court for Baltimore City.

The answer of Charles Oliver O'Donnell to the original and amended bill of Robert Turner against him and others in this court exhibited.

This defendant admits that he signed the paper writing filed with complainant's bill, marked complainant's Exhibit "A," but he denies that the same was signed for any other consideration, or with any other view, than can be deduced from a fair and proper construction of the paper writing aforesaid. He believes, and therefore charges, that the said paper writing was an inchoate contract until the subscription list thereto attached embraced the sum of $25,000, and he is informed and believes, and therefore charges, that the whole amount subscribed was $11,800. He denies that in attaching his name to the paper writing in question, he had in contemplation a copartnership as alleged in said bill of complaint, but to the contrary thereof, he avers that it was his that upon the whole amount being subscribed further acts would be necessary before the enterprise in said paper writing referred to could be fairly inaugurated. He believes, and therefore charges, that the steamboat Susquehanna was totally unfit for the purposes to which she was to have been dedicated under the terms of the paper writing in question, inasmuch as her motive power was two-thirds less than that ascribed to her by the complainant or his agent in the paper writing aforesaid.

This defendant further answering, neither admits or denies that the said complainant has expended large sums of money in and upon

the steamboat in question, but if the same were so expended, he denies they were thus expended for account or for the benefit of this defendant and his codefendants, but to the contrary thereof, he charges that the said steamboat, as he is informed and believes, was the property of the said complainant, and that he was individually liable for the payment of the same.

He further answering, denies the allegations in said bill of complaint that he hath not paid the sum subscribed by him, but to the contrary thereof, charges that he has paid the same, and that the said payment was made under the impression that all the provisions of the said paper writing were to be complied with; that the steamboat was sufficient for the purpose of the projected enterprise, and that the sum of $25,000 would be subscribed; but he charges that the said steamboat was not of the power and capacity, as he is informed and believes, represented; that the said sum of $25,000 was not subscribed; and that the said sum by him thus paid in error, and without a valuable consideration, and that the said complainant is in equity and good conscience bound to repay him the same.

He further answering, neither admits nor denies the other allegations of the said bill of complaint, but leaves the same to proof. And this defendant denies all and all manner of interest in the said steamboat except to the extent of one hundred dollars, which having been wrongfully received by the complainant, should be reimbursed by him to this defendant, or should constitute a lien upon the steamboat, which he charges is the property of the complainant, and has been by him brought within the jurisdiction of this honorable court.

And this defendant prays that this honorable court will decree the repayment to this defendant of one hundred dollars out of the proceeds of the sale of the said steamboat, and that this defendant may be hence dismissed with his costs in this behalf most wrongfully sustained, and as in duty bound, &c., he will ever pray, &c.

JOHN STEWART,
Solic'r for C. O. O'Donnell.

And afterwards, to wit, on the tenth day of April, in the year last aforesaid, Richard B. Fitzgerald and Washington Booth, by their solicitors aforesaid, filed in said cause their joint and several answer to the bills of complaint aforesaid in form following, to wit:—

Answer of Fitzgerald and Booth.

To the Honorable William G. Krebs, judge of the Circuit Court of Baltimore City.

The joint and several answers of Richard B. Fitzgerald and Washington Booth, partners, trading as Fitzgerald, Booth & Company, to the original and amended bills of complaint of Robert Turner against them and others in this honorable court filed.

These respondents, saving and reserving to themselves all proper exceptions, as well to the substance as to the form of said original

and amended bills, nevertheless, for answer thereto, say, that they believe, and therefore admit, that the complainant was the owner of the steamboat Susquehanna at the time alleged in said original bill, though they do not know what amount was paid for said vessel by said complainant, and therefore leaves him to his proof concerning said allegation.

And these respondents further answering say, that they admit that they signed the paper filed as "Exhibit A," with said original bill, but they deny that they are in any way bound for the amount subscribed by them for the purposes set forth in the same, because, as these respondents aver and charge, at the time of signing said paper it was presented to them by Mr. A. C. Hall, who stated that he, with several other merchants, was desirous of obtaining subscriptions for the purpose of purchasing a steamboat that would have power sufficient to be used as an ice boat and tow boat, and that would be able to keep open the navigation of the river and harbor, no matter how severe the winter might be, and that the party at whose instance said Hall called upon these respondents had already purchased a vessel, though the same was not in proper repair, which had been pronounced to be of the proper model, and which, when put in order, would have sufficient power to keep open navigation at all times, and to lighten vessels at Cape Henry and bring them in tow through the thickest ice to the city of Baltimore; that these respondents were very desirous that such vessel should be procured, the harbor being closed at that time, but upon learning that the "Susquehanna" was the vessel alluded to, they were indisposed to subscribe towards the purchase of that vessel, as they believed it would prove to be useless for the purposes contemplated, but at the earnest solicitation of said Hall, and only upon his assurances that they were never to be called upon to pay their subscription unless said vessel performed satisfactorily all that was promised or expected, these respondents subscribed the amount mentioned in said "Exhibit A," upon the express conditions set forth by said Hall; but these respondents aver and charge that the said vessel was wholly unfit for the purposes contemplated by said Hall and these respondents, and was incapable of being made so, and that the said vessel so far from being of 385 horse power, as stated in said "Exhibit A," was of less than 200 horse power, and by reason of insufficiency of power, as is admitted in said original bill, the said vessel is not capable of being used as a tow boat, and for the same reason proved to be utterly worthless when tried as an ice breaker, all of which was well known, as these respondents charge, to said complainant, who, concealing such knowledge from said Hall, endeavored through said Hall to obtain subscriptions, solely that said complainant might reimburse himself for any losses incurred by him in the purchase of a vessel which he found to be of insufficient capacity, and wholly unsuited duties he had intended it to perform, wherefore these respondents deny that they are responsible for the payment of said subscription, the same having

been made only conditionally, and having been induced by the concealment and misrepresentation of said complainant.

And these respondents further answering say, that said subscription was only made by them with the intent to assist in raising a capital of $25,000, to be invested in the purchase and repairing of the aforesaid vessel, if the same should be fit to be purchased and repaired as an ice boat and tow boat, and that the subscribers to the said capital stock would then have become the joint owners of said boat, and would themselves have directed the repairs to be done thereon; but these respondents aver and charge, that very little more than half the capital stock aforesaid was ever subscribed, and the whole object in contemplation of the parties who did subscribe was abandoned, and these respondents never authorized any repairs to be done on said vessel, or in any way assumed to direct or control said vessel, in connection with said complainant or any persons whatever; and these respondents therefore deny that they are interested in said vessel in any way, or that they are, or ever were partners of said complainant as in said bill alleged, or that they are responsible for any liabilities incurred by said complainant for the purchase or repairs of said vessel, if any were so incurred, which they do not admit, or that they are in any way bound to pay their subscription aforesaid, the same having only been subscribed towards a specified amount of capital stock, and for the purpose of forming a company or partnership, and said stock having never been raised or said company established, the contract of said respondents never became complete and binding.

Wherefore these respondents pray to be hence dismissed with their costs in this behalf most unjustly incurred.

WALLIS & THOMAS,
Sol'ors for Respondents.

State of Maryland, City of Baltimore, sct.

On the 9th day of April, in the year 1858, before me, the subscriber, a justice of the peace of the State aforesaid, in and for the city aforesaid, personally appeared Richard B. Fitzgerald, and *and* made oath in due form of law, that the matters and things stated in the foregoing answer are true, to the best of his knowledge and belief.

Sworn to before M. W. MEARIS, J. P.

And afterwards, to wit, on the sixteenth day of April, in the year last aforesaid, subpœna was issued in form following, to wit:—

Subpœna.

The State of Maryland to George Beatty, F. W. Brune, Sr., Samuel Johnson, John C. Brune, James A. Hooper, Thomas M. Watts, Loane ,Crookshanks, of Baltimore City, greeting—

We command and enjoin you that all excuses set aside, you be in

[SEAL.] your proper person before the judge of the Circuit Court for Baltimore City, at the court-house in said city, on the second Monday of May next, to answer the complaint of Robert Turner against you and others, in the said court exhibited. Hereof fail not, as you will answer the contrary at your peril.

Winess the Honorable William George Krebs, judge of our said court, the eighth day of March, 1858.

Issued the 16th day of April, A. D. 1858.

W. H. TURNER, Cl'k.

And the sheriff of Baltimore City, to whom the said aforegoing subpœna was delivered to be served, made return thereof to the court here, thus endorsed, to wit:—

Sheriff's Return.

"Summoned George Beatty, R. D. Morrison, to appear—Samuel Johnson, Joseph Loane, F. W. Brune, sr., John C. Brune, Brown and Brune, to appear—Charles S. Crookshanks, James A. Hooper. Non est, Thomas M. Watts.

THOMAS CREAMER, Sheriff.

And afterwards, to wit, on the thirtieth day of April, in the year last aforesaid, the receiver aforesaid filed in court here in said cause the following report, to wit:—

Receiver's Report.

To the Honorable Wm. George Krebs, Judge of the Circuit Court for Baltimore City.

The undersigned receiver begs leave to report, that after having advertised the steamer Susquehanna for sale, in accordance with the order heretofore passed in this cause, that is to say, in the "Sun" and "Patriot," two daily papers of the city of Baltimore, and also in the New York Herald, and in the Philadelphia Ledger, he offered the same for sale at the Exchange in the city of Baltimore on Saturday, 20th day of June last; that at said sale Robert Turner became the highest bidder and purchaser of the same for the sum of four thousand dollars, and that the said sale was fairly and bona fide made. ORVILLE HORWITZ, Receiver.

State of Maryland, City of Baltimore, sct.

I hereby certify, that on the thirtieth day of April, A. D. 1858, before the subscriber, a justice of the peace of the State of Maryland, in and for the said city, personally appeared Orville Horwitz, and made affirmation in due form of law that the matters and things stated in the foregoing report are just and true.

WM. H. HAYWARD.

And the said cause so standing was further continued until the second Monday in May then next; at which said second Monday in

May, to wit, in the year last aforesaid, come again into the court here the parties as aforesaid, by their solicitors as aforesaid.

And afterwards, to wit, on the tenth day of May, in the year last aforesaid, the said purchaser and receiver aforesaid, by Benjamin C. Barroll, Esquire, their solicitor, filed in court here in said cause the following petition, to wit:—

Petition.

TURNER
vs.
HALL & others.

To the Honorable Wm. Geo. Krebs, Judge of the Circuit Court for Baltimore City.

The purchaser, Robert Turner, and the receiver in this case, pray the court to ratify the sale of the steamboat heretofore made. They state to your honor that they do not believe the law absolutely requires such ratification, but they deem such the safer way, and pray the action of your honor accordingly. And is in duty, &c.

B. C. BARROLL,
Sol'r for Purchaser and Receiver.

Which being read and heard, the court passed the following order, to wit:—

Order.

Upon the foregoing petition, it is ordered this tenth day of May, 1858, that the sale of the steamboat, made by the receiver in this case, be and the same is hereby ratified and confirmed by the court.

WM. GEO. KREBS.

And afterwards, to wit, on the eleventh day of May, in the year last aforesaid, the said Frederick W. Brune and John C. Brune appeared in court here, by Brown and Brune, Esquires, their solicitors; and the said George C. Beatty, by R. D. Morrison, Esquire, his solicitor.

And afterwards, to wit, on the eleventh day of June, in the year last aforesaid, subpœna was renewed in form following, to wit:—

Subpœna.

The State of Maryland, to Thomas M. Watts, of Baltimore City, greeting:—

We command and enjoin you, that all excuses set aside, you be in your proper person before the Judge of the Circuit Court for Baltimore city, at the court-house in said city, on the second Monday of July next, to answer the complaint of Robert Turner against you and others, in said court exhibited. Hereof fail not, as you will answer the contrary at your peril.

Witness the Honorable William George Krebs, Judge of our said court, the 11th day of May, 1858.

Issued the 11th day of June, 1858.

[SEAL.] WM. H. H. TURNER, Cl'k.

And the sheriff of Baltimore City, to whom the said aforegoing subpœna was delivered to be served, made return thereof to the court here thus endorsed, to wit:—

Sheriff's Return.

"Summoned. THOMAS CREAMER, Sheriff."

And afterwards, to wit, on the nineteenth day of June, in the year last aforesaid, the said Thomas M. Watts appeared in court here, by George R. Cinnamond, Esquire, his solicitor, and filed in said cause his answer to the bill of complaint aforesaid in form following, to wit:—

Answer of Thomas M. Watts.

TURNER
vs.
HALL & others.

In Circuit Court for Baltimore City, to the Honorable Wm. Geo. Krebs.

The answer of Capt. Watts states that he admits the matters and facts set forth in the said bill, and abides by the decree which the court may pass in the premises.

GEO. R. CINNAMOND, for Def't.

At the foot whereof is the following endorsement, to wit:—

I accept the above answer without oath.

B. C. BARROLL, for Compl't.

And afterwards, to wit, on the twenty-third day of June, in the year last aforesaid, the receiver aforesaid, filed in said cause the following petition and assent, to wit:—

Petition of the Receiver.

TURNER
vs.
HALL.

To the Honorable William George Krebs, Judge of the Circuit Court of Baltimore City.

The petition of Orville Horwitz, receiver, respectfully represents that he is entitled to the usual commissions allowed for his trouble and responsibility in this case, and prays the court to allow the same, &c. ORVILLE HORWITZ.

Assent.

TURNER
vs.
HALL et al.

In the Circuit Court for Baltimore City.

I hereby assent to the allowance of the commissions of 8 per cent. to the receiver.

June 23d, 1858. BENJ'N C. BARROLL, Sol'r for Turner.

Order of Court.

Which being read and heard, the court passed the following order, to wit:—

Ordered, this 23d day of June, A. D. 1858, that Orville Horwitz, receiver in the above case, be allowed eight per cent. on amount of sales, for his commissions in the premises. WM. GEO. KREBS.

And afterwards, to wit, on the 29th day of June, in the year last aforesaid, the said complainant, by his solicitor aforesaid, filed in court here in said cause, the following order to dismiss bill as to Fitzgerald, Booth & Co., to wit:—

Order to dismiss Bill as to Fitzgerald, Booth & Co.

TURNER
vs.
FITZGERALD, BOOTH & Co.

Circuit Court, Baltimore City.

Mr. Turner: Please enter the bill dismissed as to Fitzgerald, Booth & Co.

June 28th, 1858. BENJ'N C. BARROLL, Sol'r for Turner.

Which is accordingly done.

And afterwards, to wit, on the 21st day of July, in the year last aforesaid, the said William Crichton, by his solicitor aforesaid, filed in said cause his answer to the bill of complaint aforesaid, in form following, to wit:—

Answer of Wm. Crichton.

The answer of William Crichton to the bill of complaint lately exhibited against him in this Honorable Court by Robert Turner. For answer thereunto says, That he denies the matters and things alleged in said bill of complaint, and he prays hence to be dismissed, with his reasonable costs, &c. And he will ever, &c.

J. MALCOLM, Solicitor for Crichton.

At the foot whereof is the following endorsement, to wit, Accepted without oath. B. C. BARROLL, Complainant's Solicitor.

And afterwards, to wit, on the same 21st day of July, the said complainant, by his solicitor aforesaid, filed in said cause the following order to dismiss bill as to Frederick W. Brune & Sons, to wit:—

Bill dismissed as to F. W. Brune & Sons.

TURNER
vs.
HALL et al.

In the Circuit Court of Baltimore City.

Mr. Turner will please dismiss the bill as to the defendants Frederick W. Brune and others, constituting the commercial firm of F. W. Brune & Sons.

July 21st, 1858. B. C. BARROLL, Sol'r for Complainant.

Which is accordingly done.

And the said cause, so standing, was further continued until the second Monday in September next.

At which said second Monday in September, to wit, in the year last aforesaid, came again into court here the parties aforesaid, by their solicitors aforesaid.

And afterwards, to wit, on the 27th day of September, in the year last aforesaid, the said Andrew Flannigain, John S. Beacham, Samuel Beacham, Lenox Beacham, and George P. Beacham, by their solicitor aforesaid, filed in said cause the following petition, to wit:—

Petition of A. Flannigain & Co.

TURNER
vs.
HALL et al.

In the Circuit Court for Baltimore City, September Term, 1858.

To the Honorable William George Krebs, Judge.

The petition of Andrew Flannigain, John S. Beacham, Samuel Beacham, Lenox Beacham, and George P. Beacham, defendants in this cause, respectfully shows: That on or about the 1st day of March, 1858, they filed their libel in the District Court of the United States for the Maryland District, against Robert Turner, the complainant in this cause, for the whole amount of repairs done the steamer Susquehanna by your petitioners, the aggregate whereof appears by their answer heretofore filed in this cause, and that the said court decided on the 31st March last, that it could not proceed with the trial of said libel until your Honor had decided this cause, or the same had been in some other way brought to a close.

Your petitioners charge, therefore, that the pendency of this cause operates as an injunction upon them in the premises, and that it is obviously the intent of said Turner to protract this cause as much as possible, in order to prevent the obtention of any decree or judgment against him for the repairs above mentioned, and which, your

petitioners charge, were done solely upon his credit, and not upon the credit of any supposititious partnership concern.

They further charge, that this injunction is an injury to your petitioners, and that though all the defendants in this cause have been summoned, yet the complainant for a long time past has delayed to proceed against them, to the manifest injury of your petitioners.

They pray, therefore, that your Honor will pass an order directing the complainant to proceed in the cause without delay, on pain of dismissal of his bill, and for further relief, &c.

WM. B. PERINE, for Pet'rs.

Which being read and heard, the court passed the following order, to wit:—

Order.

Ordered, that the matter of the above petition stand for hearing on the 27th day of September, 1858, provided a copy thereof, and of this order be served on complainant or his solicitor, on or before the 23d Sept. 1858. WM. GEO. KREBS.

On the back of which said petition and order, is thus endorsed, to wit:—

"Service admitted, S. C. Houlton for B. C. Barroll, 23d Sept. 1858."

And afterwards, to wit, on the twenty-fourth day of September, in the year last aforesaid, the said complainant, by his solicitor aforesaid, filed in said cause his answer to the said aforegoing petition in form following, to wit:—

Answer to the foregoing Petition.

TURNER
vs.
HALL and others.

In the Circuit Court for Baltimore City.

The answer of Robert Turner to the petition of Flannigain and others, filed against him at the September term of this court.

This respondent answering, admits that there is a libel depending against him in the District Court, on behalf of said petitioners.

And this respondent says, that if this present cause operates as an injunction upon the said petitioners as alleged, it is not by the desire or action of this respondent; on the contrary, this respondent alleges the fact to be, that he filed a motion in the said District Court, requiring the said court to annul its order of the thirty-first of March last, and the said petitioners resisted the application of this respondent, and procured the court to continue the said order, which the said petitioners now allege operates as an injunction.

This respondent further avers, that it is a contempt of the authority of this court, on the part of the petitioners, to institute proceed-

ings in the District Court, touching matters involved in this controversy, while this suit was pending; and this respondent insists that said District Court has no jurisdiction whatever to entertain such proceedings.

This respondent further says, that it is not his intent to protract the proceedings in this court, and puts the petitioners to the proof of said allegation.

And your respondent further avers, that he had no dealing with the petitioners; and that the work done by them, was done on the partnership account, as he supposed, upon property belonging to the partnership. And he further says, that he has proceeded with all due diligence, and he prays that the said petition may be dismissed, and that he may be allowed his costs, &c.

BENJ. C. BARROLL, Sol. for Turner.

And afterwards, to wit, on the same twenty-fourth day of September, in the year last aforesaid, the Auditor filed in court here, in said cause, the following report and account, to wit:—

Auditor's Report and Account.

ROBERT TURNER
vs.
A. C. HALL et al.

In the Circuit Court for Baltimore City.

The Auditor reports to the court, that he has examined the proceedings in this cause, and from them he has stated the within account, applying the proceeds of sale to the payment of the receiver's commissions and expenses, of the costs of suit, and reserving the balance, subject to the future order of the court. The object of the bill, is the settlement of an alleged copartnership transaction; and it stated that there are copartnership creditors unpaid, and that the partners have not paid up their proportion of the capital.

There has been no notice to creditors to come in, no testimony has been taken, and none of the questions raised by the pleadings have been settled by the court; all of which is respectfully submitted.

J. PARKIN SCOTT, Auditor.

Baltimore, 24th September, 1858.

Account.

Dr. The Steamer Susquehanna, in account with Orville Horwitz, Esq., receiver.

1857. June 20.			1857. June 20.	
To the Receiver, for his commission of 8 per cent., per order of court, less State tax of 10 per cent., $288 00 and for his expenses, 180 40		$468 40	By amount of sale then made, as per report of Trustee, filed,	$4000 00
To the clerk of this court for State tax on Trustee's commission,		32 00		
To the costs of suit, viz.,				
Att'y,	$10 00			
Clerk,	12 25			
Adal,	50			
G. Sh'ff,	14 82			
C. do.,	2 73			
		40 30		
Deft's Att'y,	$10 00			
do Clerk,	15 60			
		25 60		
To the Auditor for his fees,		9 34		
To the balance reserved, subject to the future order of the court,		3424 36		
		$4000 00		$4000 00

Whereupon, the following order of ratification was passed, on the account of the Auditor, to wit:—

In the Circuit Court for Baltimore City, 24th September, 1858.

Ordered by the court, that the aforegoing account be ratified and confirmed, as stated and reported by the Auditor, unless cause to the contrary be shown within ten days of this date.

W. H. H. TURNER, Clerk.

And afterwards, to wit, on the eighteenth day of October, in the year last aforesaid, the court passed the following order of final ratification on the account of the auditor, to wit:—

Final Ratification.

Ordered by the court this 18th day of October, 1858, that the foregoing account of the auditor be, and the same is hereby finally ratified and confirmed, no cause to the contrary having been shown.

WM. GEO. KREBS.

And afterwards, to wit, on the twenty-first day of October, in the year last aforesaid, the said Hugh Bolton and company by their solicitor aforesaid, filed in said cause the following petition, to wit:—

Petition of Hugh Bolton & Co.

ROBERT TURNER }
vs. }
A. C. HALL, &c. }

In the Circuit Court for Baltimore City, September Term, 1858.

To the Honorable Wm. George Krebs, Judge.

The petition of Hugh Bolton, Glendy Stuart, and James I. Bolton, partners trading as Hugh Bolton & Co., and defendants in this cause, respectfully shows,

That there is now in the hands of Orville Horwitz, Esq., the sum of $3424 36, as appears by the auditor's report, being the residue remaining after allowing him all his expenses and commissions as receiver. That this cause has been pending for more than nineteen months, and is not yet at issue. That the parties are very numerous, and that between them many questions at law and in equity must arise and be determined before the final adjudication of this cause, and the payment over of said fund to the party, or partners entitled thereto, and all this must necessarily occupy a long time. That said fund is producing no interest, whilst the debts of the alleged partnership, mentioned in the cause, are increasing by interest every day. Wherefore your petitioners pray that said fund may be invested in some proper public stocks, and that the dividends to be received therefrom may also be invested from time to time, as they shall be received. And they will, &c.

WM. B. PERINE, for Pet'rs.

Which being read and heard, the court passed the following order, to wit:—

Order.

October 21, 1858, on the above petition, it is ordered, that Orville Horwitz, receiver, invest the sum of $3424 36, being the balance in his hands, in city of Baltimore 6 per cent. stock of 1886, the same to be invested in his name as receiver, and the dividends arising from such investment to be in like manner invested as they shall from time to time be received.

And it is further ordered, that the receiver having made the in-

vestment of said principal fund, report the same to this court on or before the first day of November next.

And he is further directed to make an annual report to this court of his proceedings in the premises, provided a copy of this order be served on the said receiver on or before the 22d instant.

WM. GEO. KREBS.

On the back whereof is thus endorsed, to wit:—

"October 22d, 1858: service of copy admitted.

ORVILLE HORWITZ, Sol'r for Robert Turner.

And afterwards, to wit, on the 27th day of October, in the year last aforesaid, the receiver aforesaid filed in said cause the following report and exhibit, to wit:—

Report of Investment.

TURNER
vs.
HALL et al.

Circuit Court for Baltimore City.

To the Honorable Wm. Geo. Krebs, Judge of the Circuit Court for Baltimore City.

The report of Orville Horwitz, receiver, respectfully represents, That in accordance with the order heretofore passed, he has invested in city 6's the balance as per auditor's account, that is to say, $3424 36 in his name as receiver, as per receipt herewith filed; that being unable to obtain stock 1886 in the market, he bought stock of 1890; all of which is respectfully submitted.

ORVILLE HORWITZ.

Baltimore, October 27, 1858.

Bought for account of Orville Horwitz, Esq., receiver, by Israel Cohen, No. 5 North Street.

Oct. 26, $2318 52 B. City 6 per cent. 1890, 99¾	$2312 73
Oct. 26, $1103 08 " " c. 100	1103 08
Com. ¼	8 55
E. & O. E. rec'd payment,	$3424 36

ISRAEL COHEN, for Edw. Decorrnis, jr.

And afterwards, to wit, on the twenty-eighth day of October, in the year last aforesaid, the court passed the following order, to wit:—

Order.

Ordered by the court this 28th day of October, 1858, that the investment reported in the foregoing report be, and the same is hereby ratified and confirmed. WM. GEO. KREBS.

Afterwards, to wit, on the fourth day of November, in the year last aforesaid, the court passed the following rule for further proceedings, to wit:—

Rule, further Proceedings.

TURNER
vs.
HALL.

In Circuit Court for Baltimore City, September Term, 1858.

The complainant is required to proceed in this cause on or before the fourth day of the next term, on pain of having his bill dismissed.

4th November, 1858. WM. GEO. KREBS.

On the back whereof is thus endorsed, to wit:—

4th November, 1858, service admitted.

B. C. BARROLL, for Compl't.

And thereupon the said complainant by his solicitor aforesaid, filed in court here the *the* following to enter the said bill of complaint dismissed, to wit:—

Order to enter Bill dismissed.

TURNER
vs.
HALL et al.

In Circuit Court, Baltimore City.

Mr. Turner: Dismiss the bill in this case.

BENJ. C. BARROLL, Sol'r for Compl't.

Whereupon, in pursuance of the said order, the bill of complaint aforesaid is by the court here dismissed.

And afterwards, to wit, on the same fourth day of November, in the year last aforesaid, the said complainant, by his solicitor aforesaid, filed in court here the following petition, to wit:—

Complainant's Petition.

TURNER
vs.
HALL et al.

In the Circuit Court for Baltimore City.

To the Honorable W. Geo. Krebs.

The petition of Robert Turner respectfully shows: That the bill heretofore filed by him alleged that the defendants were copartners in reference to the steamboat Susquehanna, and asked that they might contribute to the expenses and moneys which had been laid out and expended upon the said boat. That Orville Horwitz, Esquire, was appointed receiver by this court, and ordered to sell the boat; that he did so, and the fund arising therefrom was ordered by the court to be invested in city stock, which was accordingly done.

That the defendants, excepting Capt'n Watts, deny the said co-partnership, and insist that the said boat was the property of your petitioner, and no copartnership property.

Your petitioner has been advised by his solicitor to dismiss his bill, which he has accordingly done. And he now prays that your Honor will pass an order directing the sale of the said city stock, and the payment over of the proceeds to your petitioner as the only party entitled or having any interest in the said fund. And as in duty, &c.

BENJ'N C. BARROLL,
Solic'r for Pet'r.

At the foot thereof is thus endorsed, to wit:—

For Capt'n Watts, whose answer I filed, I consent to the above.

GEO. R. CINNAMOND.

Which being read and heard, the court passed the following order, to wit:—

Order of Court to sell the Stock, and pay the proceeds to the Complainant.

It is ordered upon the foregoing petition, this fourth day of November, 1858, by the Circuit Court of Baltimore city, that the receiver heretofore appointed sell immediately the stock standing in his name as receiver in the foregoing cause, and pay over the proceeds thereof to Robert Turner, the complainant, he having dismissed his said bill of complaint.

WM. GEO. KREBS.

And afterwards, to wit, on the fifth day of November, in the year last aforesaid, Orville Horwitz, receiver aforesaid, filed in court here the following report and exhibit, to wit:—

Report and Exhibit.

To the Honorable Wm. Geo. Krebs, Judge, &c. &c.

The report of Orville Horwitz, receiver, respectfully shows: That in accordance with the order served on him on yesterday, he has sold the stock heretofore purchased in this case, and is about to pay the proceeds thereof over to the said Robert Turner. The net proceeds of sale amount to $3383.86, as per accompanying account. He prays to be allowed thereout a reasonable compensation for his extra trouble and responsibility in the premises, and as in duty, &c.

ORVILLE HORWITZ.

Baltimore, November 5, 1858.

Exhibit.

Sold for account of
Orville Horwitz, Esq., Receiver,
By Israel Cohen, No. 5 North Street,

120.38	Balt. city	6 per ct.,	1890,	@99¼	net,	$119.47
244.44	"	"	"	99	"	242.00
3056.78	"	"	"	98⅞		3022.39
						$3383.86

Which being read and heard, the court passed the following order, to wit:—

November 5, 1858.

Ordered on the foregoing petition that the receiver one-half the usual commissions be allowed the trustees, under the rule of court, on said sum of $3383.86. WM. GEO. KREBS.

Test., WM. H. H. TURNER, Clerk.

State of Maryland, City of Baltimore, to wit:—

I, William H. H. Turner, clerk of the Circuit Court for Baltimore city, in the Fifth Judicial Circuit of the State of Maryland, do hereby certify that the aforegoing is a full and true transcript taken from the record of proceedings of the said court in the cause therein mentioned.

In testimony whereof I hereunto subscribe my name and affix the seal of the said court this third day of December, in the year of our Lord one thousand eight hundred and fifty-eight.

[SEAL.] WM. H. H. TURNER, Clerk.

Maryland, sct.

I, William George Krebs, judge of the Circuit Court for Baltimore city, in the Fifth Judicial Circuit of the State of Maryland, do certify that the foregoing attestation of William H. H. Turner, clerk of the said court, is in due form. Given under my hand at the city of Baltimore this third day of December, in the year of our Lord one thousand eight hundred and fifty-eight.

WM. GEO. KREBS.

Appellant's Evidence in the Circuit Court.

Deposition of Wm. H. Dorsey, witness for appellant, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, 10th of March, 1859.

Question. Did you deliver any notice at the counting-room of Flannigain & Co. in reference to the steamer Ice King? If so, when? and state all you know on the subject.

Answer. I did deliver a notice at Mr. Flannigain's office, to notify him to attend a meeting of the stockholders of the steamboat Susquehanna; I do not recollect the day or month.

Question. Did you deliver a notice to Mr. Loane on the same day?

Answer. Yes.

Question. Look at the notice now shown to you, marked Appellant's Exhibit, marked W. H. D. No. and say whether it is the same notice you delivered to Mr. Loane, and whether on the same day you delivered a similar notice to Flannigain.

Answer. I could not particularly say whether this is the notice, for I did not take any particular notice of the notice except the names of the persons to whom the notices were addressed.

Question. Look at the notice again and read it.

Answer. I am a poor person at reading.

Question. State as nearly as you can recollect the time when you delivered the notice at Flannigain's office.

Answer. I cannot recollect the day; it was in the year 1857; I think it was in the winter.

Question. Was it before or after the time when the vessel made her trial trip, and how near to that time?

Answer. It was before the vessel made her trial trip; I am not able to say how near it was to the time when she made the trial trip; on reflection I do not recollect whether it was in the year 1856 or 1857 that I delivered the notice.

Question. What was your occupation at that time?

Answer. I was engineer on the steamboat.

Cross-examined.

Cross-question. To whom did you deliver the notice to which you have referred? and to whom was it addressed?

Answer. I delivered the first one to Mr. Flannigain's son; I suppose it was addressed to Mr. Flannigain.

Cross-question. Did you read the notice?

Answer. No, sir.

Re-examined.

Question. From whom did you receive the notices to be delivered?

Answer. From Mr. Follensbee.

Question. Who was Mr. Follensbee?

Answer. He was a clerk in Mr. Turner's store.

WILLIAM H. DORSEY.

Exhibit W. H. D. No. 1.

Messrs. Loane & Crookshanks:

Gent:—You are requested to attend a meeting of the stockholders of the Susquehanna Steam, Ice and Tow-boat Co., to be held at the office of H. F. Jackson, Esq., corn. Smith's Wh'f and Pratt Street (over Messrs. Wm. Rhoads & Sons'), on Monday morning next, Jan'y 26, at 11 o'clock.

By order.

A. C. HALL,
RO. TURNER.
Per J. P. V. FOLLENSBEE.

Balto., Jan'y 24, 1857.

Exhibit W. H. D. No. 1. Filed with the deposition of Wm. H. Dorsey, taken in the case of Turner *vs.* Flannigain et als., before me, on the 10th March, 1859.

LEVIN GALE, U. S. Com'r.

Deposition of Thomas M. Watts, witness for appellant, taken before Levin Gale, Esq., U. S. Com'r for Maryl'd, at the city of Baltimore, 14 March, 1859.

Question. Look at the paper now shown to you, marked T. M. W., No. 1, and say whether the signature "Thomas M. Watts" and figures "500.00" is your signature.

Answer. It is my signature to the best of my knowledge.

Question. Were you master, or captain, of the steamboat Susquehanna whilst she was being repaired? And if yea, when did you take charge of her?

Answer. I took charge of her as master on the 19th of December, 1856, whilst she was repairing.

Question. By whom were you placed in command?

Answer. Mr. A. C. Hall made the arrangements.

Question. What was the arrangement?

Answer. By taking $500 worth of stock, I was to be appointed master, at the wages of $100 per month in the winter season and $75 in the summer.

Question. Did you pay for your stock?

Answer. I did.

Question. Were you at the meeting on the 26th January, at Mr. Jackson's?

Answer. I was.

Question. Was there a subscription list of the subscribers to the steamboat Susquehanna there?

Answer. To the best of my knowledge there was.

Question. Was it read at the meeting?

Answer. It was.

Question. Was there an executive committee appointed at that meeting? If yea, who composed the committe?

Answer. There was an executive committee appointed at the meeting; the committee was composed of Mr. Turner, Mr. Wells, and Mr. Maltby.

Question. State whether the committee took charge of the boat.

Answer. I received my instructions from the committee as such.

Question. State particularly and fully what was done by the said steamboat after that time, in the way of breaking ice, relieving boats and the like.

Answer. She broke the ice first to relieve the steamer William Jenkins, just inside of the fort; she afterwards broke the ice and towed the ship Leila from one wharf to another; she broke ice to remove one of the small tug-boats out; she broke the ice and towed a new brig from one side of the basin to the other; she also broke the ice to take two small schooners from the stream to the wharf, and did some other work of a like kind.

Question. Did you hear anything said by John Beacham, one of

the libellants, in reference to being a stockholder in the said boat? If yea, state what he said on the subject.

Answer. To the best of my knowledge I have heard him say, during the time the repairs were going on, that he was a stockholder.

Question: Was the work on the boat done entirely and exclusively by the stockholders?

Answer. The greater part was; I think the principal portion of the work was done by such as had taken stock in her; such were my instructions, that the stockholders were to do the work, all such as were engaged in the business.

Question. Was John Beacham at the meeting of the 26 of January at Mr. Jackson's counting room?

Answer. To the best of my knowledge he was.

Cross-examined.

Cross-question. Who was repairing the boat when you took charge of her, and where was she lying?

Answer. She was lying at Mr. Beacham and Flannigain's ship yard; Mr. Beacham was doing the ship carpenter's work; I mean John Beacham and Company; Wells and Miller were repairing the machinery, the boilers; Mr. Silas Beacham was doing the blacksmith's work.

Cross-question. Do you know how long Flannigain and company, whom you call Beacham and Company, were engaged in repairing her?

Answer. I do not know exactly the length of time.

Cross-question. Please state as nearly as you can.

Answer. A little over a month after I joined her, to the best of my knowledge.

Cross-question. Did you first apply to Hall for the captaincy of the said boat, or to Mr. Turner?

Answer. To Mr. Turner.

Cross-question. When was this; that is, how long before you took charge of her?

Answer. I can't say exactly, but it was between the 12th and the 19th of December; I am certain of this, but not of the particular day.

Cross-question. What means have you of recollecting the date?

Answer. I arrived in this city on the 12th, from Philadelphia.

Cross-question. What did Mr. Turner say to you when you applied to him?

Answer. He told me I had his consent, but I would have to have an interview with Mr. Hall.

Cross-question. Did he give any reason for so referring you to Mr. Hall?

Answer. He did; Mr. Hall was better acquainted with steamboat matters, and he left that matter to him; or words to that amount.

Cross-question. Why did you go to Mr. Turner in the first instance for the situation?

Answer. Supposing him to be the owner of the boat and having all to say with her at that time.

Cross-question. Why did you suppose him to be the owner of the boat?

(Objected to by the appellant's proctor.)

Answer. From reports of his having purchased her, and knowing nothing else about the matter.

Cross-question. When you made your application to him, did you state to him that you had heard he was the owner of the boat?

(Objected to by appellant's proctor.)

Answer. I don't recollect what words took place at the first interview.

Cross-question. Did you give any reason to him for so applying, and if so, what was the reason?

Answer. I don't know whether it was the first, or the second, or the third interview; but I told him I understood that he had purchased the boat, and asked him if that was the fact.

Cross-question. What did he say in reply?

Answer. He said he had.

Cross-question. You have said that the executive committee was appointed at the meeting of the 26 of January, composed of certain parties; how do you remember their names?

Answer. I suppose about I remember other things; I can't give any other answer; from the fact of their being appointed, I suppose.

Cross-question. Did Mr. Turner make any statement at that meeting; and if so, what was it?

Answer. He stated that the report had been or was (I don't recollect which) in circulation that he had gotten the boat and offered her to the stockholders for a speculation, at $25,000, for the whole amount taken in stock; I can't recollect the words as he spoke them, but the amount of them was this, that instead of giving her to the company at that amount he would give her to the company at the amount of her cost and bills.

Cross-question. What amount did the subscription paper call for or refer to as the price of the boat and repairs, so far as you recollect?

Answer. To the best of my knowledge in the neighborhood of $16,000, perhaps a little over, was stated by Mr. Turner, to the best of my knowledge, as the price of the boat, with the repairs included —the cost and bills, I mean; but I do not recollect that the subscription paper stated any amount.

Cross-question. When did the committee take charge of the boat?

Answer. The day after the meeting, to the best of my knowledge.

Cross-question. Was she an efficient ice and tow-boat?

Answer. No.

Cross-question. Why was she not; and what did she want to make her so?

Answer. She wanted more power, more boiler capacity.

Cross-question. Could she, in your judgment, have been made a competent ice and tow-boat, and how?

Answer. Yes, she could, by putting new boilers in her, and a great deal of other expense.

Cross-question. Was the steamboat Susquehanna of 385 horse power before the repairs were begun or after they were completed?

Answer. Neither, I presume.

Cross-question. You have said that whilst the repairs were going on, Mr. John Beacham said he was a stockholder, did he state to what amount?

Answer. Not to my knowledge.

Cross-question. Who was present when he so stated?

Answer. I don't recollect any one.

Cross-question. Are you prepared to state positively, and upon your oath, that he did state that he was a stockholder?

Answer. I have already done so to the best of my knowledge.

Cross-question. On what day was this?

Answer. You are too hard for me now; I can't say.

Cross-question. In what month was this?

Answer. I can't answer this, only in this way, it was either in the latter part of December or some time in January.

Cross-question. What gave rise to this statement?

Answer. To the best of my knowledge, I was speaking of having taken stock myself, and had made a bad bargain, I don't know of anything else; we were talking in the way of business matters about the boat.

Cross-question. What did he say then?

Answer. It was at that time that he said he was a stockholder, or had agreed to take stock, that is all I particularly recollect; I also recollect that he said he thought she would cost a good deal more than Mr. Turner expected; I heard him say this more than once whilst the repairs were going on.

Cross-question. Why did you think you had made a bad bargain?

Answer. There were several reasons made me think so. I did not think she had power enough when I looked at her boilers; she was a single engine boat, and very old.

Cross-question. What was her horse power in your judgment, when the repairs were commenced?

Answer. I am not well enough acquainted with such matters to say.

Cross-question. State as nearly as you can.

(Objected to by appellant's proctor.)

Answer. Not over one hundred and fifty, but this is from information from engineers principally.

Cross-question. You have said that the Susquehanna did certain

work in the way of breaking ice and towing, particularly a brig, did she succeed in towing the brig?

Answer. She succeeded in all I spoke of then.

Cross-question. Did she do the work satisfactorily and promptly?

Answer. I can't answer that question, because there were a great many to satisfy in such cases. She did not to my satisfaction.

Cross-question. You have referred to certain instructions which you say you received with reference to who should do the repairs to the boat; did you superintend the repairs generally, and from whom did you receive those instructions?

Answer. I superintended them generally from the time I joined her; I received the first instructions from Captain Luke League, who was superintending her before I joined her; I then called on Mr. Turner after that to know of him if he was aware of the amount of repairs and expenses that were going on the said boat. I afterwards received instructions from Mr. Turner.

Cross-question. When did you leave her?

Answer. The last of March or first of April. I recollect now, it was the 19th of March.

Re-examined.

Question. Was your taking stock made a condition by Mr. Hall for being appointed captain?

Answer. It was.

Question. You have spoken of several interviews had with Mr. Turner in reply to Mr. Perine's questions; did Mr. Turner at any of those interviews tell you that the boat was being repaired by the Susquehanna Steam, Ice, and Tow-boat Company for the purpose of being used as an ice boat to keep open the harbor?

Answer. Not to my knowledge; he did not.

Question. Was Mr. Maltby active in superintending the operations of the boat?

Answer. He was very much so. After she was ready to run, after she went into the hands of the committee.

Question. Did Mr. Turner superintend her operations after she went into the hands of the committee?

Answer. Occasionally he did in company with the other two, or the others.

Question. Did Mr. Turner, or Captain League, tell you that it was the agreement that the stockholders should do the repairs?

Answer. Mr. Turner and Capt'n League both told me that it was the arrangement that the stockholders should do the repairs. I may explain here, that I do not recollect whether they said stockholders or the subscribers for stock. THOMAS M. WATTS.

Exhibit T. M. W. No. 1.

The undersigned merchants, shippers, and business men of the city of Baltimore, in view of necessity of keeping open the harbor of

said city from the obstructions of ice, and also in or to assist vessels of heavy draft, unable to reach the city with full cargoes, as well as to render relief to vessels in distress or otherwise needing either a lighter or tow-boat, do hereby promise and agree each to the other, and to each and all whose names are hereunto subscribed, to pay the sum or sums affixed to our several names, for the purpose of purchasing and "fitting" the steamboat "Susquehanna," of three hundred and eighty-five horse power, registering about five hundred tons, and of six thousand barrels capacity on deck, as a general steam *steam* tow-boat, lighter, and ice boat, to be employed for the purposes hereuntobefore expressed; and it is hereby also agreed by and between the undersigned that the capital of twenty-five thousand dollars, the requisite purchase money of and expenditures on said *said* steamboat, shall be deemed to be a capital stock and be divided into shares of one hundred dollars each, and that the sum or sums respectively subscribed by us, shall be represented by and be understood to mean the equipment thereof, in the shares of said capital stock.

Robert Turner,	$1,500	Charles R. Pearce,	100
A. C. Hall,	1,000	Thomas M. Watts,	500
E'd S. Lamdin,	500	H. F. Jackson,	500
David McCahan,	100	F. W. Brune & Sons,	500
Loane & Crookshanks,	200	Provided the sum of $25,000	
Hugh Bolton & Co.,	200	be subscribed, and a char-	
Wells & Miller,	500	ter is obtained.	
A. Flannigain & Co.,	500	W. T. Walters & Co.,	300
Wier, Longcope & Co.,	300	John M. Bandel,	100
Edw'd Mitchell,	200	Jas. A. Hooper,	100
Silas Beacham,	200	C. Oliver O'Donnell,	100
Slack & Brown,	500	C. H. Ross & Co.,	100
Sterling & Aherns,	100	R. H. Atwell,	100
A. R. Wallace,	200	Spence & Reid,	100
D. Q. Fowler,	200	E. L. Parker & Co.,	200
Fitzgerald, Booth & Co.,	1,000	C. Martin Stewart,	100
C. S. Maltby,	1,000	P. Malcolm & Co.,	100
Robert Porter,	100	Levering & Co.,	100

Filed with the deposition of Thomas Watts, taken in the case of Turner *vs.* Flannigain & Co., before me on the 14th day of March, 1859. LEVIN GALE, Com'r.

Deposition of William Crichton, taken before Levin Gale, Esq., U. S. Com'r for Maryland, at the city of Baltimore, on 14th day of March, 1859.

Question. Did you attend a meeting of the stockholders of the steamboat Susquehanna, on the 26th of January, 1857, at the counting room of Mr. Jackson?

Answer. I don't remember the date, but it was in the winter of that year, I attended a meeting of the subscribers to a fund being

raised for the purchase of a boat to be used to keep the harbor of Baltimore free from ice. I do not recollect the name of the boat; I think she was to be called the Ice King.

Question. Did you act as secretary to the meeting?

Answer. I did.

Question. Look at the paper now shown you, marked W. C. No. 1, say whether it is your handwriting?

Answer. That paper is in my handwriting.

Question. Does said paper contain a minute of the proceedings of the subscribers to the fund you have mentioned?

Answer. As far as my recollection serves me it does. There may have been other things said and done which were not taken down, but as far as they go they are correct. There was a great deal and done which may not have been recorded.

Question. Did you set down truly the proceedings of the meeting as shown by the paper W. C., No. 1?

Answer. To the best of my knowledge I did.

Question. Did you, as secretary of said meeting, publish next day in the city newspapers the proceedings of said meeting?

Answer. I have no recollection whatever of so doing.

WM. CRICHTON.

Exhibit W. C., No. 1.

Meeting of the subscribers to ice boat Ice King, held at Mr. Jackson's office, Jan'y 26, 1857; present 13 members, Mr. Hall in the chair, W. Crichton, sec'y. Mr. Turner stated object of meeting, that the boat had been ready for operations, and met with the accident of breaking her rudder; and proposed to place the boat at the prepart for her, and that all charges for repairs, &c., which was accepted.

On motion of Mr. Hooper, a committee of three be appointed to act as an executive committee to manage the affairs of the boat, and the interests of the stockholders, until a charter can be procured. Chair nominates Messrs. Turner, Wells, and Maltby, who were unanimously elected. And this committee to procure the vouchers of the cost of repairs of the boat, and lay the same before the stockholders at a subsequent meeting.

Deposition of Edward S. Lamdin, witness for appellants, taken before Levin Gale, Esquire, U. S. Com. for Maryland, at the city of Baltimore, 24th March, 1859.

Question. Had you any knowledge of the steamboat Susquehanna, and were you or not a stockholder in that boat?

Answer. I subscribed.

Question. How many shares or stocks did you subscribe for?

Answer. Five.

Question. Did you pay for your stock, and how much?

Answer. Yes. Five hundred dollars.

Question. Look at the paper now shown you, marked J. V. F. No. 2, and say whether the signature thereto of Edward S. Lamdin, is your signature?

Answer. Yes.

Question. Did you take stock in the boat, upon condition of furnishing materials to the boat? and if so, what materials?

Answer. That was the proposition made. My son did the work. I was not in business. The materials I was to furnish, was a portion of the canvas for covering the upper deck.

Question. Did your son so furnish the materials?

Answer. He did.

Question. Look at the paper now shown you, and marked A., and state whether the signature Edward S. Lamdin thereto, is your signature?

Answer. Yes; that is mine.

Question. Are the facts stated in that paper true?

Answer. Do you mean that we offered that paper? If that is the question, we did. The whole of the facts set forth in that paper are true, except that the boat did not turn out to be sufficient for the purposes, as stated in the paper.

Question. Did you ever hear John S. Beacham say that he was a stockholder in the steamer Susquehanna? and if yea, state all you heard him say on the subject.

Answer. I heard Mr. Beacham say, that they had taken two hundred dollars, and Mr. League wanted him to put down five hundred, and he referred him to Mr. Flannigain.

Question. How did you understand that the money paid by you for your stock was to be appropriated and expended?

Answer. At the time I paid it, I did not think anything about it, in what way it was to be applied; but afterwards, I supposed it was to go towards liquidating the debts of the boat.

Question. What do you mean by afterwards?

Answer. At the time when I paid it; I don't know that I thought much how it was to be applied. Afterwards, when I came to think the matter over, I came to the conclusion that it was to go towards paying the debts of the boat; I did not know whether the money was to go to paying the purchase-money, or to paying for the repairs.

(Appellant's proctor excepts to above answer, as not being answer to his question).

Question. Did you or not pay your money for the stock, in order that your money, with that of the other stockholders, might be expended in making the steamboat Susquehanna an effectual ice and tow-boat?

Answer. Yes.

Question. Did the persons interested in the steamer Susquehanna, apply to the city of Baltimore for the contract for keeping open the harbor in the winter of 1856–7?

Answer. They did.

Question. Did they get it?

Answer. No.

Question. Did you lend your assistance to get the contract?

Answer. I was not one of the committee men; but as far as my influence went, I did.

Question. Why did the Susquehanna not get the contract, to the best of your knowledge and belief?

Answer. I believe she was considered not sufficient, in connection with some gentlemen who took a very active part, for the Norfolk line.

Question. Suppose the Susquehanna had been ready three or four weeks sooner, do you believe she would have got the contract?

Answer. The harbor was not closed three or four weeks before that, and she would not have got the contract before she was needed.

Question. Did you attend the meeting of the subscribers to the Ice King at Mr. Jackson's, in January, 1857?

Answer. I did; the boat was sometimes called the Ice King, and sometimes the Susquehanna.

Question. Did you attend said meeting in pursuance of a written notice to attend?

Answer. Yes.

Question. Have you that notice, or do you know where it is?

Answer. I have not; and do not know where it is.

Question. Look at the paper now shown you, marked W. H. D. No. 1, and say whether the notice that you received was like this one?

Answer. I think the purport of it was about that.

Question. Did you attend a meeting in February?

Answer. I attended two meetings; I suppose that was the second one, though I don't recollect the date.

Question. Look at the paper now shown you, marked E. S. L. No. 1, and say whether you received that notice, and attended the second meeting in pursuance of it?

Answer. Yes.

Question. Was John Beacham at the first meeting?

Answer. I think so.

Question. Have you any doubt that Beacham was at the first meeting?

Answer. I think he was; to the best of my knowledge, I think I saw him there; that is all I can say on the subject.

Question. Look at the paper now shown to you, marked E. S. L. No. 2, and say whether that is the receipt which was given to you for your stock, when you paid for it?

Answer. Yes.

Cross-examined.

Cross-question. When did you sign the subscribe paper, to which you have referred?

Answer. I can't answer positively; it strikes me it was some time in November or December, as well as my memory serves me. I made no minute of it.

Cross-question. Had repairs begun upon her when you subscribed?

Answer. They had; she was on the railway of Cooper & Butler.

Cross-question. How long had she been repairing when you subscribed?

Answer. I judge some three or four weeks.

Cross-question. What was the value of the materials and labor furnished by your son to the steamer?

Answer. I think it was between $35 and $40; I don't think it exceeded $40.

Cross-question. Was your son paid, and by whom, and when?

Answer. He was paid by Mr. Robert Turner; I think it was in the ensuing spring.

Cross-question. Under what circumstances did you pay for your stock on the 5th January, 1857, and why did you pay League in particular?

Answer. I paid a part in cash, and the balance in a note; I paid League because I subscribed to him.

Cross-question. Did League ask you for the money, and did he show you authority to receive it?

Answer. No; I paid him down when I subscribed, and gave him my note; he did not ask for the money.

Cross-question. Did League call on you for the money, or did you voluntarily call on him to pay it?

Answer. He called on me.

Cross-question. Did he give any reasons why you should pay it at that time?

Answer. He did not, to my knowledge.

Cross-question. Did he mention Robert Turner's name in the interview; and if so, in what manner?

(Objected to by appellant's proctor.)

Answer. In the general conversation he might have mentioned Mr. Turner's name; he spoke of getting subscribers to make a stock company of it, and that it would be good stock.

Cross-question. Do you mean to say that League spoke of his purpose to get subscriptions to the stock?

Answer. Yes, he was then going around getting them.

Cross-question. At the first meeting in January did Turner state what he had paid originally for the boat, to the company assembled?

Answer. I am not right certain whether it was at the first or second meeting; but he made such statement at one meeting or the other, I know.

Cross-question. What was the cost according to that statement?

Answer. Four thousand dollars, with some little commissions and expenses.

Cross-question. Was anything done at the second meeting?

Answer. I think there was something done then relative to getting the contract.

Cross-question. State whether or not you have not testified in the case of Turner and Beacham, that at the second meeting nothing was done?

Answer. I can't charge my memory what was done, it is going on three years now; as I said before, something relative to opening the harbor was all that I recollect at this time.

Cross-question. Were there any resolutions passed at that meeting, or any business transacted?

Answer. My mind does not serve me at this time what was done, as these two meetings were near together.

Cross-question. Did Turner sue you in chancery?

Answer. I understood I was sued with the rest of them.

(Objected to by appellant's proctor.)

Cross-question. Whom did you employ as counsel in that case?

(Objected to by appellant's proctor.)

Answer. As it did not come to an issue in that case, I did not employ any.

(Objected to by appellant's proctor.)

Cross-question. What do you mean by saying that it did not come to an issue?

(Objected to by appellant's proctor.)

Answer. I mean it did not come to a trial.

(Objected to by appellant's proctor.)

Cross-question. How do you know it did not come to a trial?

(Objected to by appellant's proctor.)

Answer. I was not cited to court, that is the only way I know it.

(Objected to by libellant's proctor.)

Cross-question. How did you know there was such a case, if you were not cited?

(Objected to by appellant's proctor.)

Answer. I heard it from two or three persons—the suit I mean.

(Objected to by appellant's proctor.)

Cross-question. Who were they?

(Objected to by appellant's proctor.)

Answer. Mr. Carson told was one; Mr. Barroll told me he had sued all hands, including me; I inquired of him why he sued me.

Cross-question. Did you make any settlement, or was there any arrangement between yourself and Mr. Turner, or his counsel, with respect to your connection with that case? and if so, state the same fully.

Answer. I was waiting for the case to go on to see the result, not calculating that I would have any more pay after I had paid by sub-

scription; there was no other arrangement or settlement made with me, only I paid my subscription, calculating that it was all settled.

Cross-question. Did Mr. Turner, or any one in his name, make any promises to you with reference to that case?

Answer. Well, I don't remember the words; I was talking to Mr. Barroll about the case, and he said that it was requisite that he should sue the whole of us; that was about the whole of it.

Cross-question. Did Mr. Turner, or any one in his name, make any promises to you with reference to that case?

Answer. What kind of promise do you mean?

Cross-question. Did he agree, or any one for him, that you should not be required to pay any more than you have paid, or that he would save you harmless against any payment on account of that condition?

Answer. In once or twice talking with Mr. Turner on the subject, I said it was very hard that I had lost my five hundred dollars; Mr. Turner said I had acted very honorably, and he did not think it would cost me any more, I had paid up my part.

Cross question. Did he promise that it should not cost you any more, or did he offer to stand in your shoes?

Answer. As I said before, he said it would not cost me any more, as I had acted so honorably, and other men had backed out.

Cross-question. Repeated.

Answer. I repeat, as I said before, that he said as I had acted so honorably it would not cost me any more.

Cross-question. Please state his words on the occasion as nearly as you can recollect them.

Answer. I state them as I stated them before. In a conversation I stated to Mr. Turner that I had paid all I agreed to pay, and he stated that I had acted honorably, and that he reckoned he would not call upon me for any more.

Cross-question. Do you know the extent and value of the repairs done upon the Susquehanna by Flannigain & Co., that is, the amount of their bill?

Answer. No more than what I heard.

Cross-question. Do you know the amount of the bill of Wells & Miller?

Answer. No more than I heard.

Cross-question. Do you consider yourself as having been so far a joint owner of the steamer Susquehanna as to be responsible now in part for those and other bills for repairs?

(Objected to by appellant's proctor.)

Answer. I do not.

Cross-question. Why do you not?

Answer. Because I paid by subscription.

Cross-question. Why do you think that releases you?

Answer. Because other subscribers have not paid the amount of their subscriptions.

Cross-question. Did Turner or any body else for him, ever pay you back anything?

Answer. Not a dollar.

Cross-question. What became of the Susquehanna?

Answer. She was sold, I think, to New York.

Cross-question. Who owned her at the time and who sold her?

Answer. I don't know, but I heard that Mr. Turner owned her.

Cross-question. Did you hear from Turner that he had sold her?

Answer. It strikes me I did.

Cross-question. Did he tell you what he got for her?

(Objected to by appellant's proctor.)

Answer. I think it was a kind of a trade, if I mistake not.

Cross-question. State the trade.

(Objected to by appellant's proctor.)

Answer. I think some kind of manure or fertilizer, De Beng's; I am not acquainted with the article.

Cross-question. What amount of De Beng was he to get?

(Objected to by appellant's proctor.)

Answer. I heard eight thousand dollars' worth of De Beng.

Cross-question. From whom did you hear it?

Answer. It strikes me I heard it in the office of Mr. Turner, in some general conversation among them.

Cross-question. Was Turner present?

Answer. He might have been. I think he was, to the best of my knowledge.

Cross-question. When was this conversation?

Answer. I can't say, I don't remember.

Cross-question. Was it in 1857?

Answer. No, sir.

Cross-question. Was it in 1858?

Answer. I think it was.

Cross-question. Was it in the summer, or the spring, or the fall, or the winter?

Answer. It strikes me it was in the summer.

Cross-question. Do you recollect how long Turner kept the boat after she was released out of the court before he sold her? and whether he put any repairs on her after said release?

Answer. I do not.

Re-examined.

Question. You have spoken of a meeting in February, 1857, will you state whether at that meeting the subject of procuring the charter of the Old Relief for the Steam, Ice, and Tow-boat Company was not debated, and whether Mr. Mason was not present for that purpose?

Answer. By mentioning Mr. Mason's name in this connection you have refreshed my memory, and I recollect Mr. Mason being there, and offered to try to procure the charter from the Old Relief Boat.

Question. Was he there by appointment for that purpose?
Answer. He was invited in. He keeps just below on the wharf.

Cross-examined.

Cross-question. Who invited Mr. Mason?
Answer. I do not remember.
Cross-question. Did Mr. Mason come?
Answer. He did.
Cross-question. Did you come to any conclusion on the subject of taking the charter of the Relief?
Answer. No, it was only talked about.
Cross-question. How many persons were present at that meeting?
Answer. I don't distinctly remember, but I judge there were from twelve to fifteen.

E. S. LAMDIN.

The exhibit J. V. F. No. 2, referred to in the foregoing deposition, is filed and returned with the deposition of Joseph V. Follenbee taken before me in this same cause.

The exhibit A. referred to in the foregoing deposition is filed and returned with the deposition of John Bunting taken before me in this same cause.

And the exhibit W. H. D. No. 1, referred to in the foregoing deposition is filed and returned with the deposition of Wm. H. Dorsey taken before me in this same cause.

LEVIN GALE, Com.

Exhibit E. S. L. No. 1.

E. S. Lamdin, Esq.

Sir: You are respectfully requested to attend a meeting of the Stockholders of the Susquehanna Steam, Ice, and Tow-boat Company, to be held at the counting room of Mr. H. F. Jackson, on Friday afternoon the 27th inst., at 3½ o'clock.

A. C. HALL,
ROB. TURNER.

Balto. Feb. 23, 1857.

Exhibit E. S. L. No. 1.

Filed with the deposition of Edward S. Lamdin, taken in case of Turner *vs.* Flannigain et al., before me on the 24th March, 1859.

LEVIN GALE, Com.

Exhibit E. S. L. No. 2.

Baltimore, January 5, 1857. Received of Edward S. Lamdin, five hundred dollars, for five shares stock in the Susquehanna Steam, Ice, and Tow-boat Company.

LUKE LEAGUE, for the Company.

Exhibit E. S. L. No. 2.

Filed with the deposition of E. S. Lamdin, taken in case of Turner *vs.* Flannigain et al., before me on 24th March, 1859.

LEVIN GALE, U. S. Com.

Deposition of A. C. Rhodes, witness for appellant, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, 24th March, 1859.

Question. What was your occupation in December, 1856?

Answer. I was then agent or broker of Fire and Marine Insurance Companies.

Question. Did you insure the steamboat Susquehanna, when, for whom, and for what account, and for what time, and in what companies?

Answer. Acting as agent or broker for the companies, I effected an insurance on said steamer in the Howard Insurance Company, of Philadelphia, for $5,000, against loss by fire, for twelve months, on the 13th of December, 1856, on account of A. C. Hall, agent; also, on the same boat, for same party, and same day, and for the same time, for $2,000, in the Great Western Insurance Company; and also for the same party, on same boat, for same time, and on same day, in the State Mutual Insurance Company, for $5,000.

Cross-examined.

Cross-question. At whose request was the insurance effected, and in whose name?

Answer. At the request of A. C. Hall, and in his name, as agent.

Cross-question. Were those policies ever surrendered up to the companies, or any of them?

Answer. I do not recollect.

Cross-question. Were they or any of them assigned to third parties? and if so, to whom, and when?

Answer. I don't recollect.

The further taking of the deposition was then adjourned to give the witness an opportunity to examine into the matters, so as to answer the above question.

On the 29th day of March, 1859, the witness appeared before me and further answered and deposed as follows, to wit:—

Answer. Those policies were never cancelled or assigned with the permission or knowledge of the respective companies, or to the knowledge of this deponent.

2 days' attendance. A. C. RHODES.

Deposition of John Bunting, witness for appellant, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, on the 24th March, 1859.

Question. Were you clerk to the city council in the winter of 1856–7, inclusive?

Answer. I was clerk during that session; I am now clerk to the committees.

Question. Look at the paper now shown you, marked A, and state whether the endorsement on the back of said paper is in your handwriting, and whether that is the original paper presented to the council.

Answer. The endorsement is mine, and said paper was presented to the city council.

Question. Look at the paper now shown to you marked B, and state whether the endorsement on the back of said paper is in your handwriting, and whether it is the original paper presented to the council.

Answer. Yes, it is endorsed in my handwriting, and is the original which was presented to the council.

Question. Look at the printed paper now shown to you, marked C, and state whether it is a true copy of the journal, and whether it states truly the proceedings of the council on the 4th of February, 1857.

Answer. Yes.

Question. Look at the communication on pages marked 282, 283, and 284, of the said printed paper C, and state whether the originals were in your possession, as clerk to the city council, and whether you have made search for the same, and if so, whether you were or not able to find them.

Answer. The originals of the communications were in my possession, as clerk of the city council. I did search for them thoroughly, but was not able to find them. JOHN BUNTING.

Exhibit A.

We the undersigned, merchants, shippers, and business men of the city of Baltimore, in view of past experience of loss, which we, in connection with the community at large, have sustained by our harbor being obstructed by ice, and now that there is a boat preparing, and will be ready in a few days, well capacitated to meet said emergency, would respectfully recommend to the Honorable the Mayor and City Council of Baltimore, the passage of an act allowing the Susquehanna Steam, Ice and Tow-boat Company five cents per ton trackage on all towage passing to and from Baltimore through the track said boat may make during the winter, at any time the river may be obstructed by ice:—

Duvall, Keighler & Co.,	Pegram, Paynter & Davis,
Coale & Cugle,	Gable, McDowell & Co.,

D. Mekan & Kearfoot,
Werdebaugh, Smith & Co.,
Kephart & Daley,
S. Bevan & Co.,
Oberndorff & Laner,
Slothower, Matthews & Co.,
Clark, Luckett & Co.,
Jno. Hambleton & Brother,
Whitely Bros. & Stone,
Robert Turner,
George Beatly,
A. D. Dungan,
R. T. Holmes,
Wells & Miller,
Charles M. Jackson,
D. T. Morton & Co.,
Wm. Mason & Son,
Adkisson, Clark & Co.,
Carter & Rost,
Slack & Browne,
Howell & Bros.,
Hopkins, Hull & Co.,
Wm. Mayhew & Co.,
Aldridge, Higdon & Co.,
B. S. & W. A. Leney & Co.,
Taylor & Gardner,
Stellman, Henricks & Co.,
Edward Mitchell & Co.,
Loane & Crookshanks,
A. C. Hall,
Dunlop,
Hugh Bolton & Co.,
William Colton,
John W. Brown & Son,
Edward S. Lamdin,
Wier, Longcope & Co.,
Duer, Annis & Co.,
David McCahan,
Andrew Flannigain.

Exhibit A.

Filed with the deposition of John Bunting, in case of Turner *vs.* Flannigain et al., taken before me the 24th March, 1859.

LEVIN GALE, U. S. Com.

Exhibit B.

To the Honorable the Mayor and City Council of Baltimore.

Gentlemen: Whereas, it having appeared in the newspapers, very much to the detriment of the owners of the steamboat "Ice King," that some false and undue influence has been brought to bear upon your minds in relation to the opening of the harbor, inasmuch that as by a vote of your honorable body you have awarded the work to a party who have made no successful effort to accomplish the same, and even at a higher rate than was offered by the owners of the "Ice King,"

Under the circumstances, the undersigned would most respectfully ask for a reconsideration of said vote, until the powers of the Ice King may be fairly and properly known. From what the said boat has already accomplished, her owners believe she is fully competent to do all that is necessary, and which the emergency requires.

Baltimore, Feb. 1, 1857.

McDougall & Clarke,
Wells & Miller,
Rob. Turner,
Jos. V. Follensbee,
C. S. Maltby,
Sam'l Butler,
A. C. Hall,
David Q. Fowler,
M. B. Field,
N. Baylies,

E. A. Abbott,
J. B. Wilson,
John N. Ely,
W. J. Walter,
Jas. Girvin.

Exhibit B.

Filed with the deposition of John Bunting in case of Turner *vs.* A. Flannigain et al., taken before me, on the 24th March, 1859.

LEVIN GALE, U. S. Com.

First Branch Journal.

Mayor's Office, City Hall, Baltimore, Feb. 4th, 1857.

To the honorable the members of the First and Second Branches of the City Council.

Gentlemen: I have received the enclosed proposition from James Carey Coale and others, in reference to opening the harbor, in furtherance of the late ordinance of your honorable bodies, and, if acceptable, will conclude a contract without delay. I also enclose you a proposition from William Wells, which is not deemed practicable. It will be perceived that no advance is expected on the part of the city, until the service shall have been fully performed.

With great respect, your obedient servant,

THOS. SWAN, Mayor.

Baltimore, January 31, 1857.

Hon. Thos. Swan, Mayor, &c.

Dear Sir: The undersigned, on behalf of the committee appointed by the subscribers to the fund contributed by the merchants and underwriters, towards aiding to open the harbor, and to co-operate with the Mayor and City Council in reference to that object, beg leave to represent that the Baltimore Steam Packet Company offer for the sum of $10,000 to open the river and harbor of Baltimore from Light Street wharf to such a point in Chesapeake Bay as may be found necessary to enable a free egress and ingress for vessels of all descriptions through the ship channel, and to keep open said track through solid or still ice, whenever such impediment exists, for the balance of the season; no part of said contract money to be paid until the above service is satisfactorily performed and completed, in the judgment of two referees, one to be appointed by the Mayor and this committee, and one by the said Baltimore Steam Packet Company, which two referees will in their turn appoint a third should they fail to agree.

As, according to the resolutions of the Council, any contract made must meet their approval as well as your own, we would respectfully ask of you (said contract meeting your approval) to invite the council in joint convention this evening, for the purpose of obtaining their

confirmation of the above agreement, that this important work may be commenced without delay.

Very respectfully,
JAS. CAREY COALE,
WM. L. MONTAGUE, Jr.
C. MORTON STEWART,
ALLEN A. CHAPMAN,
C. OLIVER O'DONNELL,
Committee.

Baltimore, February 3d, 1857.

Hon. Thos. Swan, Mayor, &c.

Dear Sir: The undersigned, on behalf of the committee of merchants and underwriters who have subscribed to the fund raised, with a view to assisting the city to open the harbor, &c., begs to hand you the enclosed proposal, which has been handed in by the agents of a boat called the Ice King, which we have thought it proper to lay before you. The committee would further add, that they do not consider the proposition a feasible one, on account of the limited power of the boat, and her supposed inability to perform the work.

Very respectfully yours,
JAMES CAREY COALE, for the Committee.

To James Carey Coale, Esq., and others.

The undersigned committee, representing the stockholders of the steamboat Ice King, offer to open a track to clear water in the Chesapeake Bay, so as to allow the ingress and egress of vessels, for the sum of $5,000 appropriated by the city, and any further sum which has been subscribed or may be subscribed by the merchants and underwriters of the community. They further agree to the conditions that the channel shall be kept open, and that they are to receive no compensation without the service they engage to perform shall be reordered.

Yours very respectfully,
ROBERT TURNER,
JOHN WELLS.

N. B.—In other words, we will perform the required services for $9,500.
ROBERT TURNER,
JOHN WELLS.

The decision as to the character of service rendered is to be decided by three parties, one to be named by the Mayor, one to be named by the merchants' committee, and one to be named by us.

On motion of Mr. Travers, the contract with the Baltimore Steam Packet Company was ratified and confirmed. The Second Branch returned the resolution, ratifying and confirming the contract with the Baltimore Steam Packet Company, relative to keeping the chan-

nel open, endorsed "Ratified and confirmed." On motion of Mr. Turner, the Branch adjourned until to-morrow afternoon, at 5 o'clock.

By order, JOHN BUNTING, Clerk.

Deposition of Joseph V. Follansbee, witness for appellant, taken before Levin Gale, Esq., U. S. Com'r for Maryland, at the city of Baltimore, 24th March, 1859.

Question. Were you clerk for Robert Turner in the winter of 1856–7?

Answer. I was.

Question. Look at the paper now shown you, marked Exhibit W. H. D. No. 1, and say whether the same is in your handwriting.

Answer. It is.

Question. Look whether you wrote all the notices for that meeting, and whether the notices were similar.

Answer. I did, and they were similar.

Question. To what persons were they addressed?

Answer. They were addressed to names on a subscription list of members of the Susquehanna Steam Ice and Tow-boat Company.

Question. Did you deliver any or all of the notices yourself to the persons to whom they were addressed?

Answer. I delivered some, but not all.

Question. To whom were the rest given to be delivered?

Answer. To a fellow clerk at Robert Turner's, named J. W. A. Dorsey.

Question. Is he a son, or adopted son, of Wm. H. Dorsey?

Ans. He is the adopted son of Wm. H. Dorsey.

Question. Look at the paper now shown you, marked J. V. F., No. 1, and say whether the same is in your handwriting.

Answer. It is.

Question. State whether you wrote all the notices for that meeting, and whether you addressed them to the persons named on a a subscription list of members of the Susquehanna Steam Ice and Tow-boat Company?

Answer. I did.

Question. Did you deliver all or any of them to the parties to whom they were addressed?

Answer. I delivered part of them.

Question. Look at the paper now shown you, marked J. V. F., No. 2, and say whether you know any of the signatures thereto to be genuine; and if so, state which.

Answer. I recognize the following signatures to be genuine:—

Robert Turner,	A. C. Hall,
Edward Mitchell & Co.,	Slack & Brown,
Sterling & Aherns,	R. B. Porter,
C. R. Pearce,	C. Morton Stewart.

Question. Look at the paper shown you, marked A, and say

whether you know any of the signatures thereto to be genuine, and if so, state which.

Answer. I applied for the whole of those names and had them put down before. Upon reflection I find that the names on the first sheet were obtained by me, but those on the sheet attached were not all got by me, though some of them may have been. I recognize of those on the second sheet the following names or signatures known to me, viz:—

Robert Turner, A. C. Hall, William Mason, Slack & Brown, and Edward Mitchell & Co.

Question. Look at the paper shown you, marked B., and say whether you know any of the signatures thereto, to be genuine, and if so, which of them.

Answer. I recognize the following signatures:—

Robert Turner, Joseph V. Follansbee, A. C. Hall.

Cross-examined.

Cross-question. Do you recollect of addressing any notice of the meeting in January to A. Flannigain & Co., or delivering any such notice to them?

Answer. I remember addressing one to them, but do not remember delivering it.

Cross-question. How do you remember it, and was there any incident to impress it upon your mind?

Answer. The spelling of the name I had not known, or was uncertain before how to spell it, and the question come up upon my mind.

Cross-question. How did you spell it?

Answer. I don't remember now.

Cross-question. Do you remember addressing any notice of the meeting of February, to the said firm, or of delivering any such notice to them?

Answer. I do recollect addressing a notice of the meeting to the said firm, but do not recollect of delivering it.

J. V. FOLLANSBEE.

Exhibit J. V. F., No. 1.

Messrs. Loane & Crookshanks.

Gentm.: You are respectfully requested to attend a meeting of the stockholders of the Susquehanna Steam Ice and Tow-boat Co., to be held at Mr. H. F. Jackson's counting room, on Friday afternoon next the 27th instant, at 3½ o'clock.

A. C. HALL.
ROB. TURNER.

Balto., Feb'y 23d, 1857.

(*Exhibit J. V. F., No.* 1.)

Filed with the deposition of Joseph V. Follensbee in the case of Turner *vs.* Flannigain et al., before me, on the 24th March, 1859.

LEVIN GALE, U. S. Com'r.

J. V. F. No. 2.

The undersigned shippers, merchants, and business men of the city of Baltimore, in view of the necessity of keeping open the harbor of said city from the obstructions of ice, and also in order to assist vessels of heavy draught, unable to reach the city with full cargoes, as well as to render relief to vessels in distress, or otherwise needing either a lighter or a tow-boat, do hereby promise and agree each to the other, and to each and all whose names are hereunto subscribed, to pay the sum or sums affixed to our several names, for the purpose of purchasing and fitting the steamboat Susquehanna, of 385 horse power, registering about 500 tons, and of six thousand barrels capacity on deck, as a general steam tow-boat, lighter, and ice boat to be employed for the *poses* hereinbefore expressed, and it is hereby also agreed by and between the undersigned that the capital of $25,000, the requisite purchase money of and expenditures on said steamboat, shall be deemed to be a capital stock, and be divided into shares of $100 each, and that the sum or sums respectively subscribed by us shall be represented by and be understood to mean the equivalent thereof in the shares of said capital stock.

Robert Turner,	$1500	C. R. Pearce,	100
A. C. Hall,	1000	Thos. M. Watts,	500
Edward S. Lamdin,	500	H. F. Jackson,	500
David McCahan,	100	F. W. Brune & Sons,	500
Loane & Crookshanks,	200	John M. Bandel,	100
George Beatty,	200	Jas. A. Hooper,	100
Hugh Balton & Co.,	200	C. Oliver O'Donnell,	100
Wells & Miller,	500	Chs. H. Ross & Co.,	100
A. Flannigain & Co.,	500	R. H. Atwell,	100
Weir, Long, Cope & Co.,	300	Spence & Reid,	100
Edward Mitchell & Co.,	200	E. L. Parker & Co.,	200
Slack & Brown,	500	C. Morton Stewart,	100
Stirling & Ahrens,	100	P. Malcolm & Co.,	100
A. R. Wallace,	200	Walters & Harvey,	300
Silas Beacham,	200	Levering & Co.,	100
D. Q. Fowler,	200	James Westcott,	100
Fitzgerald, Booth & Co.,	1000	Samuel Johnson,	100
C. S. Maltby,	1000	John T. Farey & Bro.,	100
R. B. Porter,	100		

(*Exhibit J. V. F., No.* 2.)

Filed with the deposition of Joseph V. Follansbee, taken in the case of Turner *vs.* Flannigain et al., before me on the 24 March, 1859. LEVIN GALE, U. S. Com.

Deposition of Richard Stockett Mathews, witness for appellant, taken before Levin Gale, Esq., U. S. Comm'r for Maryland, at the city of Baltimore, on the 30th March, 1859.

Question. Were you employed by A. C. Hall, or any one else, to prepare an agreement for subscribers to stock in the Susquehanna Steam Ice and Tow Boat Company?

Answer. All that I know in reference to the Susquehanna Steam Ice and Tow Boat Company, in connection with any person, was communicated to me in my professional capacity, as an attorney at law, and I desire to avail myself of the privilege accorded to attorneys with reference to communications thus received, and therefore respectfully decline answering any questions in reference to the matter unless ordered to do so by the court.

Question. Were you attorney or counsel for any of the parties to this suit?

Answer. I was not counsel for Flannigain & Co., or any other member of that firm, nor was I personally consulted by Mr. Turner.

Cross-examined.

Cross-question. Were you constructively Turner's counsel, or, in other words, who was to pay you for your services?

Answer. I cannot answer that question without going into matters which I think privileged for the reasons above set forth.

R. STOCKETT MATHEWS.

Deposition of Nathan J. Elliott, witness for appellant, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, on the 30th March, 1859.

Question. Have you knowledge of an interview between Robert Turner and Andrew Flannigain in the month of March, 1857? If yea, state where such interview took place, and what occurred.

Answer. I have a knowledge of such interview taking place at the counting-room of Mr. Turner. Mr. Flannigain called there and presented a claim for repairs done on the steamer Susquehanna or Ice King. Mr. Turner told Mr. Flannigain, We do not owe the amount of that claim, and I have no authority to pay it; you know, Mr. Flannigain, you are interested in the stock of the boat, and when your claim is settled it will be less the amount of your stock. Mr. Flannigain then said, Turner, I am very much in want of money, loan me your notes without reference to the bill, and if, in the meantime, the boat cannot be sold and the claim met, I will take up the

notes at maturity. Mr. Turner then said with this understanding, I will loan you my notes, which he did and took his receipt therefor. Mr. Flannigain then left.

Question. Did you see Flannigain sign the receipt?

Answer. I did.

Question. Look at the paper now shown you, marked N. J. E., No. 1, and state whether you believe that to be a copy of the original receipt.

Answer. I have seen the original, and believe that to be a copy.

Question. What is your occupation? And if you are in the employment of Robert Turner state how long you have been so employed. State your age.

Answer. I am a clerk in the employment of Robert Turner, and have been so employed for the last eleven years; I am in my forty-seventh year.

Question. Have you knowledge of the Susquehanna Ice and Tow Boat Company?

Answer. I know there was such a company being got up.

Question. Look at the book now shown you, marked "N. J. E., No. 2," and state what knowledge you have of it.

Answer. I know that was a book in the possession of Mr. Turner, opened for the accounts of the Steamboat Company.

Question. Did you see Mr. Turner make the entries in that book from day to day? and state what were your opportunities for so doing.

Answer. I did see him make the entries from day to day; my opportunities for seeing them made was from my being in the counting-room where the subscriptions were returned, by Mr. League principally, and the amounts paid by Mr. Turner himself.

Question. Look at the paper now shown you, marked N. J. E., No. 3, and state whether it was signed in your presence, and delivered to Mr. League in your presence.

Answer. That paper was signed in Robert Turner's counting-room in my presence and given to Mr. League; that is my recollection.

Question. Look at the papers now shown you, marked respectively N. J. E., No. 4; N. J. E., No. 5; N. J. E., No. 6; and N. J. E., No. 7, and say whether the respective signatures thereto, "Luke League," or "L. League," are in the handwriting of the Luke League referred to in Exhibit N. J. E., No. 3.

Answer. Yes; those are the signatures of said Luke League.

Question. Was anything furnished out of the store of Robert Turner for the association or *or* company heretofore mentioned as the Susquehanna Steam, Ice and Tow-boat Company? If yea, state what.

Answer. Yes; we furnished flour, meal, and a few other articles, which I cannot now exactly remember.

Question. Look at the paper now shown you marked N. J. E. No.

8, and say whether the same is in your handwriting, and whether you have knowledge of the correctness of the bill.

Answer. Yes; this bill is in my handwriting; I made it out, and I think the articles are all correct.

Question. Were parties concerned in the steamer Susquehanna at the office of Mr. Turner during the winter of 1856–7? And what were the purports of their visits? and give generally a statement of what took place.

Answer. There were parties that were concerned in the matter frequently there; among whom were Messrs. Wells, Maltby, Lamdin, Silas Beacham, Flannigain, and others; I can't recollect all; they were speaking in regard to the repairs of the boat, and what was necessary to prepare her for the work they contemplated to do; all seemed to be interested very much.

Question. Did they state or indicate anything in relation to the ownership of the vessel? And did they direct what repairs should de done? State generally your knowledge about the matters inquired of.

Answer. When I have heard them speak of the vessel, they generally said "we ought to have so and so done;" I don't recollect exactly what the work to be done was, now; they were under the impression that if the necessary work could be accomplished by a certain time, they could get the contract from the city to keep the harbor open; which they tried to do.

Question. Did you hear the subject of trackage for this boat discussed at the interview you have spoken of? And if so, what occurred?

Answer. I did hear it referred to; but to what extent, I don't remember.

Question. Were you at any of the meetings of the stockholders in January or February, 1857?

Answer. I never was at any of the meetings.

Question. Was the subject of an ice-boat for the harbor engaging much public attention in the winter of 1856–7?

Answer. Yes; the attention was general in regard to the matter.

Question. Did you hear Silas Beacham say anything about the failure to get the city contract? And if so, state the same.

Answer. I think I heard him say that it was a pity for the concern that we did not get the contract, in consequence of which, we sustained a loss of from eight to ten thousand dollars.

Question. Was the book N. J. E. No. 2, of which you have spoken, kept by Mr. Turner in his personal custody, or among his other books?

Answer. He kept it himself; it was not among his store books at all.

Question. Is all contained in that book in the handwriting of Mr. Turner?

Answer. I see a little interlining on the first page, the third line

from the bottom, the words "witness Wells and Miller," which I think is in the handwriting of Mr. Follansbee; all the rest of the entries in the book and all contained in it, are in the handwriting of Mr. Turner.

Question. As far as you know, was there any other book kept?

Answer. I know of none other.

Cross-examined.

Cross-question. Do you recollect at what period of the winter of 1856–7, the harbor of the city became first obstructed by ice?

Answer. I think the entire obstruction first occurred in January; I recollect that it was certainly entirely obstructed in the month of February.

Cross-question. Was this in the early or latter part of January?

Answer. The latter part, I think.

Cross-question. You have spoken of Mr. Flannigain being at the store of Mr. Turner, with a view to the settlement of the account of his firm against the steamer Susquehanna, how often did he come to the store of Mr. Turner in the winter of 1856–7?

Answer. He was there frequently; I cannot say how often.

Cross-question. When did he come there for the first time during that winter?

Answer. I think he began to come about February.

Cross-question. What time in February, in the early or the latter part of that month?

Answer. In the early and latter part both.

Cross-question. Can you remember whether he came there as early as the 15th of that month?

Answer. I can't remember the date, although I think it likely he did.

Cross-question. Did he come before the 10th of the month?

Answer. I can't say.

Cross-question. When did the boat get to work?

Answer. I think it was in the early part of February she got to work, but really those dates have gone out of my memory.

Cross-question. What was the first work that she did?

Answer. Really, whether it was to tow the Wm. Jenkins up or some other vessels, I do not remember.

Cross-question. Did she break her rudder after she got to work?

Answer. I know that she broke her rudder, she had gone over to take in coal for the purpose of going to work, and in coming out of her berth she broke her rudder; whether she had then been to work or not, I do not know; I had not much to do with her.

Cross-question. You have referred to certain receipts of money paid to League. To whom did League pay the money thus received from time to time?

Answer. Generally to Mr. Turner himself.

Cross-question. To whom were they paid when not paid to Turner?

Answer. In one instance I think I received a subscription of $200, and gave Mr. League a receipt for the same in the name of the company, in behalf of Robert Turner; I recollect of no other case.

Cross-question. Who paid that amount to League?

Answer. I do not recollect.

Cross-question. Do you recollect the name of the person who paid it to League?

Answer. The name was given, but I do not recollect.

Cross-question. Do you recollect the time of that payment?

Answer. I do not recollect the time.

Cross-question. Where is the receipt for it which you gave to League?

Answer. I don't know; I never had any of the papers of the boat in my possession.

Cross-question. Do you know who got the receipts to which you have referred from the parties to whom they were given?

Answer. No; I do not know.

Cross-question. You have referred to N. J. E., No. 2, as a book kept by Mr. Turner, and containing entries by him. State whether or not there is any entry in that book which you did not see him make.

Answer. There may be some entries that I did not see him make; money was received in the counting-room, paid out in the counting-room, charges were made and credits entered.

Cross-question. Did you look over Mr. Turner's shoulder whenever he made an entry in that book? And if so, is that your habit with reference to entries made by him?

Answer. I occupy a place by the side of Mr. Turner, and have no occasion to look over his shoulder.

Cross-question. How did you see him make each entry then?

Answer. By looking at him, of course.

Cross-question. Did you always look at him, and at what he was writing, whenever he made an entry in that book?

Answer. I do not think I did.

Cross-question. How often did you look at what he was writing when he was writing in that book?

Answer. I cannot say.

Cross-question. Do you mean to say that when he wrote in that book, that he generally wrote in it when you were next to him?

Answer. I mean to say so, and explain by saying Mr. Turner and myself wrote at the same desk and always stand when we write; very seldom sit.

Cross-question. What is your occupation with Mr. Turner?

Answer. I keep the books of Mr. Turner's business.

Cross-question. Did you generally stop your book-keeping, when-

ever Mr. Turner took that book in hand and wrote in it, for the purpose of seeing what he wrote?

Answer. No.

Cross-question. Where did he keep that book?

Answer. In his private draw.

Cross-question. Was it locked up?

Answer. It was locked up.

Cross-question. Do you know whether anybody saw it, or handled it, but Mr. Turner?

Answer. I think Mr. Turner would show it to the subscribers to stock; for instance, Messrs. Flannigain, Lamdin, Wells, and others, as the subscriptions were being paid in.

Cross-question. Do you say upon your oath that Flannigain ever saw that book, or ever had it in his hand?

Answer. That is my impression, that he saw it; you know I am saying it all on my oath.

Cross-question. When did he see it, and who was present?

Answer. I don't remember the dates, and can't, and can't say in regard to who was present.

Cross-question. Did he examine it?

Answer. I don't know that he did.

Cross-question. Did he ask for it? and when did he ask?

Answer. I don't know that he did.

Cross-question. If he did not ask for it, how was it that he saw it?

Answer. Gentlemen mutual interested, being elated with the hope of success, would be apt to exhibit what might seem to be profitable among themselves; that is the only reason I can give.

Cross-question. Repeated.

Answer. I have given the answer above.

Cross-question. Is that the only answer you can give, or intend to give?

Answer. I would not know how to answer in any other way.

Cross-question. Do you recollect, without looking at the book to which you have referred, on what day the first debit entry therein was made?

Answer. No.

Cross-question. Can you tell, by looking at the book which I now exhibit to you, on what day that entry was made?

Answer. I can't tell; I could tell by an examination of the check.

Cross-question. Can you tell why the date does not appear on the book?

Answer. I think I can; the reason, it strikes me, was that Mr. Turner gave the party a partial check, and left it open for a day or two until he paid the whole; that is the reason he did not put the date, I am sure.

Cross-question. Look at the first eight or nine entries on the debit

side, and state whether or not they are in the same write, and appear to have been entered on the same day.

Answer. Oh, no; they might have been written with the same ink, but not on the same day.

Re-examined.

Question. Did you hear Mr. Maltby speak of employing a large number of men in connection the boat? and if so, what did he say?

Answer. I did. When the boat was breaking ice and had got below Fort M'Henry, they supposed that in consequence of the thickness of the ice she might not be able to proceed. Mr. Maltby came to Mr. Turner's store, and stated that for one he would be willing to employ a hundred hands for the purpose of cutting away the ice on either side of the boat for a short distance down, until she could be brought where the ice was not so thick.

Question. What was Mr. A. C. Hall's business in the winter of 1856–7?

Answer. He was the agent for a steamboat line at the foot of Spear's wharf.

Question. What was Mr. Maltby's business?

Answer. He was engaged in the oyster business.

Re-cross-examined.

Cross-question. Look at the entry in the book N. J. E. No. 2, of the date of November 13th, 1856, as follows: "To cash paid for one month's insurance, $25;" and state in what company she was insured, for what amount, in whose name, and who effected the insurance.

Answer. These are all questions which I cannot answer, as I don't know. NATHAN J. ELLIOTT.

The Exhibit N. J. E. No. 2, being a book which could not be readily attached to the deposition, the commissioner will hand it in to the court with the depositions. LEVIN GALE, Com'r.

Exhibit N. J. E. No. 1.

Copy.

Baltimore, March 10th, 1857. Received of Robert Turner his two notes for seven hundred and fifty dollars, one for three months, dated this day, and one for four months from 10th inst., which I promise

to protect or renew at or before maturity, from time to time, until the said notes can be met by the sale of the steamboat Susquehanna.

A. FLANNIGAIN & CO.

(Exhibit N. J. E. No. 1.)

Filed with the deposition of Nathan J. Elliott, taken in the case of Turner *vs.* Flannigain et al., before me, on the 30th March, 1859.

LEVIN GALE, U. S. Com'r.

The Steamboat
(N. J. E.

DR. Steam Ice and Tow Boat

1856.				
	To cash for cost of boat,	$4000		
Nov'r 13	To cash paid Capt. League for expenses,	100		
	To cash paid for 1 mos. insurance,	22		
Dec'b'r 3	To cash p'd Capt. League for expenses,	100		
19	To cash p'd Capt. League for expenses,	100		
20	To cash p'd to Thompson, wheelwright, r H for boat,	75		
24	To cash p'd W. H. Dorsey for coal for boat	6	50	
27	To cash p'd Valentine & Thompson on acc't,	50		
	To cash p'n Capt. League for expenses,	70		
	To cash p'd for local editors,	20		
1857.				
Jan'ry 3	To cash p'd for wheelwright work, V. & Thompson,	75		
9	To cash p'd for receipts, I. Young,	1	75	
10	To cash p'd Valentine & Thompson,	100		
	To cash p'd Capt. League for men's labor,	100		
16	To cash to Messrs. Wills & Miller on account of repairs of boat,	1000		
17	To cash to inspectors of boilers,	10		
	To cash paid reporter of Sun,	5		
	To cash to Valentine & Thompson,	150		
	To cash p'd Capt. League for expenses,	100		
	To cash p'd Geo. Beatty for wood for boat,	22	93	
	To cash p'd to men on wheels at night, a gift,	20		
20	To cash p'd V. & Thompson on acc't,	106		
	To cash to Boston men for extra services,	10		
	To cash for cheese, &c.,	1	80	
31	To cash p'd Capt. League for expenses,	100		
Febr'y 3	To cash p'd Valentine & Thompson in full,	513	40	
14	To cash p'd Capt. Watts for hands,	25		
	To cash p'd C. M. Jackson's bill,	4	67	
19	To cash p'd Capt. Watts for hands on board Susquehanna,	230		
20	To cash p'd Mr. Cannon, mate, in full,	24	63	
28	To cash p'd F. Stine, bill for nails,	61	95	
	To cash p'd Mr. Espy for water cask	11		
	To cash p'd Wm. H. Dorsey, engineer, in full,	24		

1207

Susquehanna.

No. 2.)

Susquehanna Co.		Cr.	
1856.			
Dec'b'r	By cash from Sterling & Ahrens, for subscription,	100	
18	By 3 mos. note for E. Mitchell, subscription,	200	
	By 6 mos. note for A. R. Wallace's subscription,	200	
22	By 505 old copper 23c per lb.,	116	15
27	By 4 mos. note for J. M. Bandel's subscription,	100	
1857.			
Jan'ry 2	By check of C. R. Pearce, 1 share stock,	100	
	By cash for Capt. League on acc't of Slack & Co., 5 shares,	250	
5	By cash for Capt. League, 5 shares, and by 90 days,	200	
	Note $300 for E. S. Lamdins, 5 shares,	300	
6	By E. L. Parker & Co., bill 77 57, and note for 6 mos., for $122 43, for 2 shares,	200	
10	By cash and order from H. Bolton & Co., 2 shares,	200	
17	By cash from A. C. Hall, Esq., on acc. of boat,	500	
	By cash from Slack & Co., for Capt. League, in full,	250	
	By cash from George Beatty for Capt. League, 2 shares,	200	
Feb'ry 4	By cash from C. O'Donnell, 1 share stock,	100	
5	By cash from J. A. Hooper, 1 share stock,	100	
	By cash from Levering & Co., 1 share stock,	100	
9	By cash rec'd from C. H. Ross & Co., 1 share stock,	100	
12	By cash rec'd from Keene for services, Ice King,	150	
14	By cash from Brig Almore, compromise for services in towing,	30	
16	By cash from Mene's agent for services rend. the Boston steamer,	200	
17	By cash rec'd from C. M. Stewart, 1 share stock,	100	
18	By cash rec'd from J. Girvin for coal freight,	75	
19	By cash rec'd for services rend. by Ice King to Capt. Gault's boat,	25	
20	By cash rec'd from Ford & Rogers for towing two schooners,	20	
	Applegarth due,	20	
	Wallace's brig due,	20	
March 6	By cash Keener, towing tug,	45	
28	By cash rec'd from A. C. Hall for Walters & Harvey's subp.,	300	

Exhibit N. J. E. No. 3.

Baltimore, Jan'y 31st, 1857. We, the undersigned executive committee of the Susquehanna Steam Ice and Tow Boat Company, authorize and empower Capt. Luke League to collect subscriptions of stock to said Co., and his receipt will be good for the same.

ROB. TURNER,
C. S. MALTBY,
And JOHN WILLS.

(*Exhibit N. J. E. No.* 3.)

Filed with the deposition of Nathan J. Elliott, taken in the case of Turner *vs.* Flannigain, before me, on the 30th March, 1859.

LEVIN GALE, U. S. Com'r.

N. J. E. No. 4.

Baltimore, Dec. 18, 1856.

Received of Messrs. Sterling & Ahrens one hundred dollars, for one share stock in the Susquehanna Steam Ice and Tow Boat Company.

L. LEAGUE,
For the Company.

(*Exhibit N. J. E. No.* 4.)

Filed with the deposition of Nathan J. Elliott, taken before me, in the case of Turner *vs.* Flannigain, on the 30th March, 1859.

LEVIN GALE, U. S. Com'r.

N. J. E. No. 5.

Baltimore, December 18th, 1856.

Received of A. R. Wallace two hundred dollars, for two shares of stock in the Susquehanna Steam Ice and Tow Boat Company.

L. LEAGUE, for the Company.

(*Exhibit N. J. E., No.* 5).

Filed with the deposition of N. J. Elliott, taken in the case of Turner *vs.* Flannigain et al., before me on 30th March, 1859.

LEVIN GALE, U. S. Com.

N. J. E., No. 6.

Baltimore, January 2d, 1857. Received of Slack & Brown, five hundred dollars, for five shares of stock in the Susquehanna Steam, Ice and Tow-boat Company in full.

LUKE LEAGUE, for the Company.

Conditions of the purchase: that S. & B. to furnish the boat with coal, as well as all the boats of Baltimore Steam Towing Co.

Received on the within stock, two hundred and fifty dollars, $250.

LUKE LEAGUE, for the Company.

Jan'y 2d, 1857.

Rec'd, Baltimore, Jan'y 17, '57, $250. L. LEAGUE.

(*N. J. E., No.* 6.)

Filed with the deposition of N. J. Elliott, taken in the case of Turner *vs.* Flannigain, before me on the 30th March, 1859.

LEVIN GALE, U. S. Com.

N. J. E., No. 7.

Baltimore, Feb'y 16, 1857.

Steamer Wm. Jenkins, to Steamer Susquehanna and owners:

To services rendered in the Ice, $200

Received payment for the Company, LUKE LEAGUE.

(*Exhibit N. J. E. No.* 7.)

Filed with the deposition of Nathan J. Elliott, taken in the case of Turner *vs.* Flannigain, before me on 30th March, 1859.

LEVIN GALE, U. S. Com.

N. J. E., No. 8.

Steam Tow and Ice Boat Susquehanna and owners, to Rob. Turner, Drs.

Jan'y 16.	1 Bbl. Flour,	$8 50
	100 lbs. Meal,	1 50
	½ Bushel Beans,	1 00
19.	100 lbs. Cop Rye,	1 75
	1 Second-hand Table,	2 75
Feb'y 2.	100 pounds Meal,	2 00
	½ Bushel Homony,	94
	½ do Beans,	1 00
	7 Empty Sacks,	1 25
		$20 69

(*Exhibit N. J. E., No.* 8.)

Filed with the deposition of N. J. Elliott, taken before me on the 30th March, 1859, in case of Turner *vs.* Flannigain et al.

LEVIN GALE, U. S. Com.

Deposition of Charles S. Crookshanks, witness for appellant, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, 30th March, 1859.

Question. Were you a member of the firm of Lane & Crookshanks, in the winter of 1856–7?

Answer. Yes.

Question. Look at the paper now shown you, marked J. V. F., No. 2, and state whether the signature thereto, "Loane & Crookshanks," is the genuine signature of your firm.

Answer. Yes; I think it is.

Question. Look at the notices now shown you, marked J. V. F. No. 1, and "Wm. H. D. No. 1," and say whether they were received by your firm; and whether you or your partner attended the meeting therein mentioned.

Answer. They were received by the firm; Mr. Loane left the shop with the intention of going up, from what I could understand, on each occasion, but I did not attend either meeting.

Question. Was any advantage offered your firm, in consideration of taking stock? If yea, what?

Answer. I think we, by taking stock, were to receive the joiner's work for the boat.

Question. Did you do the joiner's work?

Answer. Yes.

Question. Do you recollect the amount of your bill? If so, state the same.

Answer. I think it was $390 70.

Question. Was it settled; by whom, and how?

Answer. It was settled by Mr. Robert Turner, by paying me $190 70 cash, and deducting the stock, $200, off from the bill.

Cross examined.

Cross-question. Who paid you the $190 70?

Answer. Mr. Robert Turner.

Cross-question. Did you give any receipt at the time?

Answer. I gave a receipt.

The following papers, it is admitted by the proctors for the respective parties, truly represents the transactions.

Baltimore, Nov. 7, 1857.

B. Barroll, Esq.,

Dear Sir: The bearer of this is Mr. Crookshanks, who has a bill against the Susquehanna Steam Ice Boat Company; I refer him to you, to say what I shall do. He is willing to allow his amount of stock. His bill is $390 70. Please say what I shall do, and give him a form of receipt; so that in case you may want me to settle, I may be governed accordingly. Yours, truly,

(Signed) ROBERT TURNER.

I hereby assign all claim which the firm of Loane & Crookshanks may have against the Susquehanna Steam Ice and Tow-boat Company, or against Robert C. Turner, individually, or against the individuals composing said company, or subscribing for stock in said company; and also our stock in said company, being two shares, for valuable consideration paid to us. Our bill for work done, is $390 71, which is hereby assigned, and we allow and agree for Mr. Turner to use our name in the further prosecution of the claim, &c. This agreement and arrangement being a compromise between us.

(Signed) C. S. CROOKSHANKS,

Nov. 7, 1857. for Loane & Crookshanks.

Cross-question. Was any reference made by Mr. Turner, at the time of the settlement of your claim to a suit, then pending in equity against you and others, or the costs or result thereof? and if so, what was it?

Answer. He said nothing previous to my settlement with him, any more than I told him, I did not want to go to law, or have any law business about the matter, and that that was the reason I wanted to settle with him then. He told me at the time we were trying to make this settlement, that he knew I was a poor man, and that I should not lose my stock if he gained the suit; that was all that passed between Mr. Turner and myself on the subject.

Cross-question. Did he agree to release you and your partner from all responsibilities connected with the boat?

Answer. He did agree to release me and my partner from all expenses attending any suit.

Cross-question. Did he agree to release you from all responsibilities for the repairs and purchase of the boat?

Answer. I understood him so.

Re-examined.

Question. Was not your agreement and settlement with Robert Turner in writing?

Answer. Yes.

Re-cross-examined.

Cross-question. When you refer to the agreement mentioned in your last answer, do you mean the papers copied in this deposition?

Answer. Yes. CHARLES CROOKSHANK.

The papers marked respectively J. V. F. No. 1 and 2, referred to in the foregoing deposition, are filed and returned with the deposition of Joseph V. Follansbee taken before me in this same case.

And the papers marked W. H. D. No. 1, referred to in the foregoing deposition, is filed and returned with the deposition of Wm. H. Dorsey taken before me in this same case.

LEVIN GALE, Com.

Deposition of David Q. Fowler, witness for appellant, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, 31st March, 1859.

Question. What was your occupation in the winter of 1856–7?

Answer. I was clerk for A. C. Hall, agent for the Cromwell line of steamers.

Question. What number of steamboats were in that line?

Answer. I think there were about twelve, although I am not positive as to the number.

Question. Who did the ship carpenter's work for the steamboats when it was required, in this port?

Answer. A man by the name of Goodwin did a good deal of it, I can't say whether he did the whole, but my impression is that he did. I mean R. B. Goodwin & Co.

Question. Who did the machinist work?

Answer. Wells & Miller.

Question. Look at the paper now shown you marked T. M. W. No. 1, and state in whose handwriting the heading of the said paper is written.

Answer. To the best of my belief that was written by Jesse H. Owings.

Question. Who was Mr. Owings, and was he clerk for Mr. Hall?

Answer. He was clerk for Mr. Hall, one of the clerks.

Question. Look at the signature on said paper, D. Q. Fowler, and state whether it is in your handwriting.

Answer. That is my writing.

Question. Do you know anything of an original paper, and that the paper filed and shown to you marked T. M. W. No. 1, so far as the heading is concerned, is a copy of said original paper?

Answer. I do not.

Question. Look at the paper now shown you marked J. V. F. No. 2, and at the signature D. Q. Fowler thereto, and state whether the said signature was written by you.

Answer. Yes.

Question. Look at the heading of the paper J. V. F. No. 2, and say whether it is in your handwriting.

Answer. It is not.

Question. Look at the signature to the paper J. V. F. No. 2, "A. C. Hall," and say whether it is the genuine signature of the A. C. Hall of whom you have spoken.

Answer. Yes, I believe it to be his signature.

Question. Look at the paper now shown you marked B, and state what signatures to said paper you recognize as genuine.

Answer. I believe the following to be genuine to my knowledge, (there are others of which I know nothing) viz:—

Robert Turner, Wells & Miller, McDougal & Clarke, A. C. Hall, David Q. Fowler, M. B. Field, N. Bayleys, W. T. Walters, and James Girvin.

Question. Look at the paper now shown you marked A, and state what signatures to said paper you recognize as genuine.

Answer. I recognize the following, viz.:—

Robert Turner, A. C. Hall, A. S. Dungan, Dunlop & Co., Wells & Miller, Charles M. Jackson, D. T. Morton & Co., Wm. Mason, Daniel McCahon, Andrew Flannigain, Slack & Browne, George Beatty, and Wier, Longcope & Co.

Question. Where is the railway of Cooper & Butler located?

Answer. I do not know.

Question. Have you knowledge of counsel being employed to pre-

pare a stock subscription list for the steamer Susquehanna? If yea, state all your knowledge in reference to the same.

Answer. I have no personal knowledge.

Question. Do you mean to say that you have no knowledge derived from any source about the subject inquired of?

Answer. I have heard Mr. Hall speak of counsel being employed, but what it was I do not know, I paid no particular attention to it.

Question. Who was the counsel employed?

Answer. I do not know, I did hear Mr. Teackle Wallis' name mentioned as one of them.

Cross-examined.

Cross-question. Did you ever pay up your two hundred dollars? If so, to whom?

Answer. I have not paid it to any one.

Cross-question. Why did you not pay it up?

Answer. Because the boat was not as represented. She was not fit to do the duties she was intended for; the matter all fell through.

Cross-question. Why then did Hall pay up?

Answer. I do not know.

Cross-question. Were you ever asked to pay up your subscription?

Answer. Never.

Cross-question. Do you know whether Turner ever proposed to Hall jointly to purchase and put into operation the steamer Susquehanna for the purpose of opening the harbor?

Answer. I never heard any proposition of the kind made by Turner. I knew there was some arrangement going on between them about this steamer, but as to any proposition made by Mr. Turner to Mr. Hall, I know nothing about it.

Cross-question. Do you know what the arrangement was?

Answer. I do not.

Re-examined.

Question. Did you see the paper marked "T. M. W. No. 1," and "J. V. F. No. 2," at the counting-room of A. C. Hall before any signatures were attached to them?

Answer. The paper T. M. W. No. 1, it is my impression I did not see until some half dozen names or more were attached, and my impression is the same with regard to J. V. F. No. 2. There are some seven signatures attached which I think were on it before I saw the paper.

DAVID Q. FOWLER.

2 days' attendance.

The Exhibit T. M. W. No. 1, referred to in the foregoing deposition, is filed and returned with the deposition of Thomas M. Watts, taken before me in this same case.

The Exhibit J. V. F. No. 2, referred to in the foregoing deposi-

tion, is filed and returned with the deposition of Joseph V. Follansbee, taken before me in this same cause.

And the Exhibits A and B, referred to in the foregoing deposition, are filed and returned with the deposition of John Bunting, taken before me in this same cause. LEVIN GALE, Com.

Deposition of James Cary Coale, witness for appellant, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, 2d April, 1859.

I have examined the printed paper marked C, and the paper therein contained, addressed to Jas. Cary Coale and others, committee, and signed Robert Turner, John Wells. I remember the handing in of this paper by Mr. Turner, and I think Mr. Wells was with him. It was handed in as a proposal of the services of the Ice King, for which Mr. Turner acted. I sent or handed the original paper to Mr. Swan, and I identify the printed copy as a verbatim copy of said paper. I have never seen the original since I sent it to Mr. Swan.

I have also examined the paper contained within Exhibit C, and dated 3d February, 1857, addressed to the mayor, and signed by myself for the committee, and I identify it as a true copy of the original, sent by myself. At every interview I had with Mr. Turner when we were negotiating in regard to the employment of the vessel before the definite proposition above referred to, signed by Turner and Wells was handed in, Mr. Wells accompanied Mr. Turner, and took part with him in the negotiation, and at several of the interviews a Mr. Lamdin came with Mr. Turner and took part.

After the proposal had been handed in, and after the contract had been made with the Norfolk Steamboat Company, Mr. A. C. Hall called upon me, and reflected very severely on the committee who had the matter in charge, and of which I was chairman, for not having given the contract to what he called "our boat." I cannot say that those persons above named represented themselves as proprietors of the steamboat, but as proprietors or copartners with others in a steamboat, or a company owning a steamboat, nor that they were sole proprietors.

Cross-examined.

I am an underwriter and had no pecuniary interest as to who got this contract. My letter of the 3d Feb'y contained in Exhibit C, and above referred to, sets out the true and only ground on which we objected to employing the Ice King. We paid the Norfolk Company, that is the city and the subscribers to the fund, $8000 for opening the harbor when closed by ice.

The ground of our objection to the Ice King was her want of power. We consulted with competent persons about her power, and this was the information we received, "want of power and inability to perform the work." The Norfolk Steamboat Company did the

work according to contract, promptly and effectually. My impression is that the communication addressed to me by Turner and Wells was received by me on the 3d of February, 1857. I remember sending it up immediately to the mayor, I think on the same day on which it was received.

Re-examined.

Mr. Turner called on me on the day after the decision of the mayor and city council adverse to the Ice King, which was made on the 4th of February, in company with Mr. Lamdin. They referred to this decision, and appeared to be very much disappointed that the contract had not been given to them, and reflected very severely on the committee of the subscribers, and that they had not had a fair show. My impression is that Mr. Wells was with them, but of this I am not certain. They referred to my letter to the mayor of the 3d of February, above spoken of, and spoke of it as calculated to do their boat great injury, as it reflected upon the standing of the boat improperly, and I recollect both Lamdin and Turner distinctly threatened that if the committee did not withdraw the letter that they would sue them for damages. We declined to do anything of the kind, and that ended the matter.

JAS. CARY COALE.

The Exhibit C referred to in the foregoing deposition is filed and returned with the deposition of John Bunting, taken before in this same cause. LEVIN GALE, Com'r.

Deposition of Luke League, witness for appellant, taken before Levin Gale, Esq., U. S. Com'r for Maryland, at the city of Baltimore, 8th day April, 1859.

Question. Look at the papers now shown you, one marked T. M. W., No. 1, and the other J. V. F., No. 2, and say whether you have ever seen them before, and, if yea, when and where first? And state all that you know about them.

Answer. I first saw the paper marked J. V. F., No. 2, in A. C. Hall's office. He handed me the paper without any signature to it, and I read it. Mr. Hall and Mr. Turner were then together, and Mr. Hall handed Mr. Turner the paper, and Mr. Turner put his name down $1500, and Mr. Hall put his name down for $1000. One or the other then handed me the paper, I don't recollect which, but I took it after their two names were signed to it, and took it for the purpose of getting other subscribers. I then got a portion of the subscribers; I don't know how many without selecting them out. The paper marked T. M. W., No. 1, I never saw except in Mr. Hall's office, to my knowledge, except, perhaps, when examined in court.

Question. Did Mr. Hall direct you to any persons to get subscriptions? If yea, what persons?

Answer. He sent me to Spence & Reid, Slack & Browne, and, I believe, to Fitzgerald & Booth. I went to see Spence & Reid and Slack & Browne, but not to Fitzgerald & Booth, although I think he told me to go to them.

Question. Did Slack & Brown subscribe, and look at the paper now shown you, marked N. J. E., No. 6, and say whether it is the receipt you gave for their subscription?

Answer. Slack & Browne subscribed and paid me $500, and that is the receipt.

Question. Did you get the subscription of Wells & Miller? If yea, state all you know about.

Answer. I applied to Mr. Miller to take stock and do the work of the boat. He said he would take $200 of stock. I told him if he did not take more than that he could not do the work, and left him. I afterwards saw Mr. Hall, and told him what passed between Mr. Miller and myself, and he told me that he had seen Mr. Wells, and that it was all right, he would take $500.

Question. Who put Wells & Miller's signature down for $500?

Answer. I don't know.

Question. Was it put down in Mr. Hall's office?

Answer. I don't know.

Question. Did you see Mr. John Beacham in relation to taking stock, and state all that occurred?

Answer. I applied to Mr. Beacham in the first place to do the work, and he commenced on it as well as I recollect. He (Mr. Beacham) went to Skinner's yard to see about hauling the steamer up, as he had a steamer on his ways at the time. Mr. Skinner could not haul her up. He then told me he would go to Cooper and Butler's and see if they would haul her up. Cooper and Butler sent a man to measure her, and said she would go on the ways, and then took her up. Mr. Beacham then took charge of her to do the carpenter's work, and, I think, the calker's work. He had his carpenters there, but I forget whether he had his calkers there or not. I don't recollect what conversation took place between Mr. Beacham and myself in regard to stock, but I applied to Mr. Flannigain; he said he would take $200. I asked him to take $500. He said he would see about it. I asked Mr. Beacham to make it $500. He refused to do it, stating that he had a small interest in the concern, and was not able. I asked him several times, and he invariably refused.

Question. Did you not apply to John Beacham to take stock before you saw Mr. Flannigain?

Answer. I am not positive whether I did or not.

Question. Did Mr. Flannigain authorize a subscription for five shares of stock?

Answer. I met Mr. Flannigain after the $200 was down, and spoke to him about the stock again. He told me I might tell John

Beacham to take five shares. I did tell Beacham, and he refused as I said before.

Question. Did Silas Beacham take stock, how much, and upon what arrangement, if any?

Answer. Silas Beacham agreed to take two shares ($200) in stock, with the understanding that he was to do the ship smith's work.

Question. Were George Beatty, Wier, Longcope & Co., Mitchell & Co., Slack & Browne, D. McCahan, Edward S. Lamdin, Hugh Bolton & Co., in connection with their subscription for stock, to furnish anything for the boat? If yea, state specifically what each was to furnish.

Answer. George Beatty was to furnish pine wood for her; Wier, Longcope & Co. were to furnish the ship chandlery; Mitchell & Co. were to furnish stores, provisions, and groceries for the boat; Slack & Browne were to furnish Cumberland coal; D. McCahan was to do the plumbing work; Edw'd S. Lamdin was to furnish the deck covering or any other article the boat might want in his line; Hugh Bolton & Co. were to furnish paints and oil.

Question. Who made the contracts with them?

Answer. I made the agreements with them generally I think when I called on them.

Question. Who superintended the repairs on the steamer before the appointment of Captain Watts?

Answer. I attended to part of it, and I had a man in my absence to attend to the work until Captain Watts took charge.

Question. Do you mean to say that you ordered and directed the repairs?

Answer. I do.

Question. Did you expedite the repairs as much as possible?

Answer. I did not.

Question. Why not?

Answer. I was holding back to get subscribers first, in order to get money enough to pay for the repairs.

Question. Who had the receipts of which the exhibit N. J. E., No. 6, is one, printed?

Answer. I believe I ordered them, and Mr. Young printed them.

Question. Were you frequently at the boat whilst she was at Cooper & Butler's railway? State how often.

Answer. I was there I suppose, on an average, twice a day.

Question. Did you ever see Mr. Turner there? And if yea, how often?

Answer. I have seen him there once or twice. I recollect distinctly seeing him there once, and may have seen him twice, but am not positive.

Question. Did you ever see Edward S. Lamdin there, or Maltby? And if so, how often, and what were they doing there during the time she was on the railway?

Answer. I saw Mr. Lamdin whilst she was on the railway there

frequently; have been through the boat with him myself; I don't recollect seeing Mr. Maltby on board of her whilst she was being repaired. Mr. Lamdin was looking at the boat.

Question. Did you ever hear John Beacham speak of selling his stock? If yea, state the circumstances, and what was said.

Answer. Mr. Beacham told me after she had broke her rudder, or after the Norfolk boat had got the contract, I don't recollect which, that he would take $20 a share for his stock.

Question. Did you ever tell Mr. Flannigain that you would put him down for any stock? If yea, state what occurred.

Answer. I never saw Mr. Flannigain but twice on the subject that I recollect of; at the first interview in the lower part of his office or down stairs; I have already stated what occurred there in reference to the stock. The next place I met Mr. Flannigain was at the head of Union Dock going along the street, and I spoke to him about taking $500 worth of stock, and it was then he sent me to Mr. Beacham.

Question. Repeated.

Answer. I don't recollect what amount of stock I told Mr. Flannigain I would put him down for, but he consented to take two shares in the first place, and the next interview I had was as I have stated about the five shares.

Question. Look at the papers now shown you, N. J. E., No. 8, 4, 5, & 7, and E. S. L., No. 2, and state whether the signatures to those papers were written by you, and whether said receipts are correct.

Answer. The signatures to N. J. E., No. 7, is mine; the receipt is correct; and I collected the money. N. J. E., No. 5, is correct; I took a note for that. N. J. E., No. 4, is correct; I collected that money. E. S. L., No. 2, is correct, and was settled by a note.

Question. Who superintended the repairs after you quit?

Answer. Capt. Watts.

Cross-examined.

Cross-question. Did you buy the steamer Susquehanna, and for whom?

Answer. I commenced by writing to the agent about her, and purchased her for Mr. Turner, with a view of making a company out of the concern after she got here.

Cross-question. Did you pay the money for her, and who furnished the money?

Answer. I did not pay for her; I don't know who paid the money for her, but Mr. Turner told me he did; I did not see the money paid.

Cross-question. Who told you that the view of her purchase was to make a company out of her?

Answer. I first suggested that to Mr. Turner before she was bought.

Cross-question. Did you get Slack & Browne's signature on the same day that you first say the subscription paper marked J. V. F. No. 2, in Mr. Hall's office?

Answer. I don't recollect, without looking at the paper.

Cross-question. Look at the paper, and answer if you can.

Answer. I think not; I don't think I got as much subscribed on that day as appears before their subscription.

Cross-question. Did Slack & Browne, when they subscribed, pay you anything on account of their subscription?

Answer. I think not the first day.

Cross-question. How long after their subscription did they pay, if you can recollect?

Answer. I don't recollect; I gave them a receipt for it, but don't recollect when it was.

Cross-question. Do you remember when Silas Beacham commenced work?

Answer. I do not.

Cross-question. Was it in the month of January?

Answer. I think it was in January.

Cross-question. Did you pay any of the bills for repairs?

Answer. I don't recollect of paying any money out for the boat, except from some iron nails and some of the hands that worked on her.

Cross-question. Did you get any subscriptions for the boat on the day when you first saw the subscription paper, J. V. F., No. 2?

Answer. I don't recollect whether I did or not?

Cross-question. Did Mr. Turner request you to get subscriptions to the stock at any time?

Answer. Yes.

Cross-question. When?

Answer. After I got the list.

Cross-question. In what month did you get the list?

Answer. I don't recollect, but I think it was some time in January.

Cross-question. Who requested and employed you to superintend the repairs?

Answer. Mr. Turner told me to attend to it, and Mr. Hall told me to go on and attend to it; Mr. Hall said he would pay me for it.

Cross-question. Did Hall pay you?

Answer. No.

Cross-question. Who did?

Answer. No one ever paid me.

Cross-question. Who paid you for the current expenses?

Answer. Mr. Turner.

Cross-question. State whether or not you reported what was done in relation to the repairs from time to time to Mr. Turner.

Answer. I sometimes reported to him, and sometimes to Mr. Hall, when the boat was nearly done.

Cross-question. Do you mean to say that you reported to Mr. Hall during the latter part of the repairs?

Answer. Yes.

Cross-question. Who directed you in the first instance to have her repaired by Flannigain & Co.?

Answer. No one told me to go to Flannigain & Co., I took that responsibility on myself, but told Mr. Turner I was going to get them to do it.

Cross-question. What did Turner say when you told him?

Answer. I don't recollect now.

Cross-question. Did he approve or disapprove of it?

Answer. He did not disapprove of it. I don't recollect whether he approved of it or not.

Cross-question. What I mean to ask you is this. Did Turner direct you, when the boat was brought from Havre de Grace, to have repairs done on her, such as were afterwards done by Flannigain & Co.?

Answer. Mr. Turner told me to have done what was necessary—giving it up to me pretty much.

Cross-question. Were the repairs done by Flannigain & Co. such as were necessary, in your judgment, and were they competent workmen?

Answer. I believed them to be necessary, and they had not been competent men I would not have got them to do the job.

LUKE LEAGUE.

The Exhibit T. M. W., No. 1, referred to in the foregoing deposition, is filed and returned with the deposition of Thomas M. Watts, taken before me in this same cause.

The Exhibit J. V. F., No. 2, referred to in the foregoing deposition, is filed and returned with the deposition of Joseph V. Follansbee, taken before me in this same cause.

The Exhibits N. J. E., Nos. 4, 5, 6, 7, referred to in the foregoing deposition, are filed and returned with the deposition of Nathan J. Elliott, taken before me in this same cause.

And the Exhibit E. S. L., No. 2, also referred to in the foregoing deposition, is filed and returned with the deposition of Edward S. Lamdin, taken before me in this same cause.

LEVIN GALE, Com.

Objections to testimony taken before L. Gale, Esq., on part of the appellant.

TURNER
vs.
FLANNIGAIN.

In the Circuit Court of the U. S. for the District of Maryland. Commissioned before Levin Gale, Esq.

The appellees object to the admissibility of all the testimony offered by the appellant, tending to show a copartnership in the steamer Susquehanna, as between appellant and appellees.

WM. B. PERINE, for Appellees.

Exhibit R. T.—Admission.

It is admitted that the annexed paper is a true copy of an article that appeared in the local columns of the Baltimore American of the 13th of November, 1856. That said article, or the original of it, was taken to Mr. Hooper, the reporter of the said paper, by Luke League, who requested its publication in said newspaper, when said Hooper asked said League who was responsible for the truth of the statements or facts set forth in said article; that League then replied that he was responsible for the same, and that if that was not sufficient, Mr. Robert Turner, the appellant, would be responsible: that subsequent to this interview with League, Hooper called upon said Turner, who endorsed the statement of facts set forth in said article or paper. BENJ'N C. BARROLL, for Turner.

WM. B. PERINE, for Appellees,

Subject to all objections as to its competency and relevancy.

Article.

It will be gratifying to the people of the city to know, and especially so to business men, that the difficulties experienced for several months last winter, in consequence of the harbor having been closed by ice, will be avoided in the future by allowing at no time the navigation of the harbor and river to be obstructed. A company of merchants have purchased a powerful steamer, with engine of five hundred horse power, and in every way fitted for the work for which she was obtained. She has nearly twice the tonnage of the old Relief, and is supplied with two large flue boilers, so constructed that one or both can be used as the necessity of the case may require.

Her bow is sheathed with boiler iron three-eighths of an inch thick, and from her construction there is no doubt she will be fully able to keep a track open however thick the ice may become. The want of a vessel of this kind last winter was sadly felt, the whole commerce having been obstructed, large losses, to say nothing of the inconvenience, was the result, but through the energy of these gentlemen, who have undertaken the enterprise, that trouble will not recur.

She will probably reach the city on Monday next, when those interested in the commercial prosperity will have an opportunity to examine this indispensable adjunct to the free navigation of the river and harbor at all seasons of the year. As it is a matter of private energy, everything possible should be done to sustain it.

The early movement of preparation is well, and the presence of an efficient ice-boat will be hailed with pleasure by all who feel an interest in the commercial prosperity of the city.

Exhibit X Y.

Meeting of the subscribers to the ice-boat "Ice King."

At a meeting of the subscribers to the ice-boat "Ice King," held

this day, Mr. A. C. Hall was called to the chair. Mr. Robert Turner stated to the meeting that it had been currently circulated that it was the intention of the originators of this enterprise to make it a matter of speculation, by placing the boat and her repairs at the sum of $25,000. Such was not the fact. It is understood that the boat shall be placed to the price paid for her, and the actual amount of repairs and alterations to be paid for as shall appear by the proper vouchers.

On motion of Mr. J. A. Hooper, a committee of three of the stockholders was appointed to procure a charter, and manage the affairs of the boat until a permanent organization of the company is effected. Messrs. Turner, Wells, and Maltby compose that committee.

On the trial of the boat, on the 20th instant, her efforts in breaking the ice were entirely satisfactory to her owners.

It is the intention of the company to despatch the boat this morning to release the Boston steamer, Wm. Jenkins, now lying off Fort McHenry.

The stockholders (among whom are some of our most prominent merchants and shipbuilders), are very sanguine in the ability of the "Ice King" to open and maintain a channel through the ice during *the entire* winter.

This is to certify that the foregoing is a true and correct copy of a paragraph which was published in the Balto. American, on the 27th January, 1857, and the original copy of which is not now in our possession. DOBBIN & FULTON, Proprietors.

To avail as if the original were produced, but no further. All exception to relevancy and competency being reserved.

BENJ'N C. BARROLL, for Appellant.
WM. B. PERINE, for Appellees.

(*Exhibit No.* 1.)

Herein before inserted at page 15 of this record.

License of a vessel above twenty tons, to carry on the coasting trade for one year.

No. 13.

Thirteen.

District and Port of Baltimore.

In pursuance of an act of Congress of the United States of America, entitled "An act for enrolling ships or vessels to be employed in the coasting trade and fisheries, and regulating the same." Robert Turner, owner, Thomas M. Watts and Luke League, of Baltimore, State of Maryland, having given bond that the steamboat Susquehanna, whereof the said Thomas M.

[J. S. OWENS, Dep'y Collec.]

Watts is master, burthen four hundred and fifty-three tons and $\frac{65}{95}$ parts of a ton, appears by her enrolment, dated at this port this day, No. 8, shall not be employed in any trade, while this license shall continue in force, whereby the revenue of the United States shall be defrauded, and having also sworn that this license shall not be used for any other vessel, or for any other employment than is hereby specified, license is hereby granted for said steamboat Susquehanna, of Baltimore, to be employed in carrying on the coasting trade for one year from the date thereof, and no longer.

[R. BINES, D. N. Off.]

Given under our hands and seals of office, at the port of Baltimore, this seventeenth day of January, in the year one thousand eight hundred and fifty seven.

Agreement.

This newspaper article, written by Hooper, in the presence of, and by the request of, Robert Turner and C. S. Maltby, appeared in the Baltimore newspapers, the Sun and American, on the morning of Feb'y 6, 1857.

To avail as if the signatures were proven, and no further. All objections to relevancy and competency reserved by the appellees' proctor.

BENJ'N C. BARROLL, for Turner.
WM. B. PERINE, for Appellees.

Article.

Contract for opening the harbor.

For several weeks past the harbor of the city of Baltimore has been obstructed by ice, to the great detriment of trade, and positive injury of the commerce of the port. During the fall the steamboat Susquehanna was purchased with a view of making an efficient ice-boat of her, and, if possible, clear all obstructions to navigation in future. A large force was put to work on her, and she was got in proper order, though not until the harbor, and indeed the river, was closed. The subject engaged the attention of merchants, and the City Council adopted a resolution appropriating five thousand dollars to aid the object. The owners of the ice-boat "Ice King," as she was subsequently called, satisfied of her efficiency, proposed to do the work of opening and keeping open the harbor and river, and to test her capacity, she was sent to the Boston steamer, William Jenkins, then lying in the ice near Fort McHenry, the result of which is well known to the public. That accomplished, her owners felt satisfied their efforts would be properly appreciated, and without waiting for the consummation of a contract, had her despatched on the work for which she was designed, and up to yesterday morning she had proceeded for some distance below the Lazaretto, having, when started yesterday, made a distance of five hundred yards within an hour through ice about fourteen inches thick.

Before this work had been done, her owners called on the mayor and were led to believe that nothing would be done for the present,

"as nature would probably in a short time remove all the obstructions." Satisfied that no injustice would be done in that quarter, they called on the agent of the underwriters, Mr. J. Carey Coale, who said he had no preference that the contract should be given to any particular party, one-half or thereabouts of the pay to be furnished by the merchants and underwriters, so that the owners of the Ice King felt perfectly secure to go on and show her entire efficiency. But they were surprised, on looking over the morning papers, to find that the mayor had actually contracted with another company, and that said contract had been confirmed by hasty action in both branches of the city council, while they had no knowledge of what was going on. And they were more surprised to learn that Mr. J. Carey Coale, after declaring no preference, had sent a communication to the mayor declaring that the Ice King was not equal to the work.

Though the confirmation of the contract was rushed through with such haste, two members of the first branch of the city council, Messrs. Muller, of the third ward, and Travers, of the seventeenth ward, privately declared their preference for the Ice King, though they said the mayor would not listen to the idea of her capacity. After however she had proved her ability, and the action of the mayor and city council had been taken against her, her owners called on the mayor, who said he was prompted to the course he took through the representations of the agent of the underwriters, Mr. Coale, who "had no preference for any boat or any company." Now all the undersigned ask is that simple justice be done. They have invested their capital as much for the interest of the city as for their own, and when they have a boat sufficient for the emergency, by false representations they are thrown aside after the most difficult part of the work has been performed, and when the moderation of the weather, and the consequent weakening of the ice, would have made the remainder comparatively easy. They did not ask to be paid one farthing until the work was done, and if they failed the loss would fall upon themselves. Believing that the harbor should be kept open, they did not ask for trackage, as has been usual, but were willing to open it, and then if the city and merchants would reimburse them, they would be satisfied, but had determined if no money was to be paid they would accomplish the object.

Again, the proposition was lower than that offered by any other party, and as the undersigned were prepared to give the bond required by the city council, they cannot understand why the whole matter should be consummated to their prejudice, and without a notice of what was going on. We would not charge duplicity on the part of any, but will leave to the unbiassed judgment of the public whether even-handed justice has been done.

ROBT. TURNER,
C. S. MALTBY,
JOHN WELLS,
Committee for Owners.

Bill of sale of the steamer Susquehanna from the Philadelphia, Wilmington and Baltimore Railroad Company to Robert Turner.

[Hereinbefore inserted in this record, at page 16.]

Bill of sale of the steamboat Susquehanna by Robert Turner, of the city of Baltimore, to William Mench, of the city of New York.

Know all men by these presents, that I, Robert Turner, of the city of Baltimore, in the State of Maryland, for and in consideration of the sum of eight thousand dollars to me in hand paid at the time of the perfection of these presents by William Mench, of New York City and State, the receipt whereof is hereby acknowledged, have granted, bargained, sold, assigned, transferred, and set over, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the said William Mench, the steamboat Susquehanna, together with her machinery, engines, boilers, masts, yards, sails, rigging, anchors, cables, boats, tackle, apparel, and appurtenances, as she now is, and is more particularly described in a certificate of enrolment granted her at the port of Baltimore, in the following words:—

No. 8. In conformity to an act of the Congress of the United States of America, entitled "An act for the enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same, Robert Turner, of Baltimore, State of Maryland, having taken or subscribed the oath required by the said act, and having sworn that he is a citizen of the United States, sole owner of the ship or vessel called the Susquehanna, of Baltimore, whereof Thomas M. Watts is at present master, and as he hath sworn a citizen of the United States, and that the said ship or vessel was built in Baltimore, State aforesaid, in the year eighteen hundred and thirty-seven, "1837," as appears by a certificate of enrolment, No. 15, granted at the port of Havre de Grace the 21st day of October, 1852, surrendered, ownership changed, and said certificate having certified that the said ship or vessel has one deck and no mast, and that her length is one hundred and fifty-two feet ten inches, her breadth thirty-two feet two inches, her depth ten feet two inches, and that she measures four hundred and fifty-three tons and $\frac{65}{95}$ parts of a ton; that she is a steamboat, has a square stern, no galleries, and no figure head.

[SEAL OF THE TREASURY OF THE UNITED STATES.]

[SEAL OF THE COLLECTOR OF THE PORT.]

And the said Robert Turner having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said steamboat has been duly enrolled at the port of Baltimore.

[SEAL OF THE NAVAL OFFICER OF THE PORT OF.]

Given under our hands and seals, at the port of Baltimore, this seventeenth day of January, in the year one thousand eight hundred and fifty seven, to have and to hold the said steamboat

Susquehanna, and the appurtenances thereto belonging, unto the said William Mench, his executors, administrators, or assigns, to the only proper use and behoof, and as the proper goods and chattels of the said William Mench, his executors, administrators and assigns, from henceforth forever. And I, the said Robert Turner, for myself, my executors and administrators, do hereby covenant and agree to and with the said William Mench, his executors, administrators and assigns, that at the execution of these presents, the said Robert Turner is the true and lawful owner of the said steamboat called the Susquehanna, of Baltimore, and appurtenances, and have full right and authority to sell and dispose of the same, free from, and cleared of all claims, incumbrances or demands whatsoever.

In witness whereof I have hereunto set my hand and seal, the twenty-fifth day of May, in the year of our Lord one thousand eight hundred and fifty-eight.

ROBERT TURNER. [SEAL.]

Signed, sealed, and delivered in the presence of
BENJ'N C. BARROLL.

True copy.
[SEAL.] Test: JNO. THOMPSON MASON,
Collector.

Endorsed.

Copy bill of sale of steamer Susquehanna, from Robert Turner to William Menck.

Custom House, Baltimore.

Received for record, on the 12th day of May, 1858, at 11 o'clock A. M. Same day recorded in Liber 7, folio 215, &c., and ex'd per
JNO. THOMPSON MASON,
Collector.

Enrolment of the steamboat Susquehanna, offered by the libellants.

No. 8. Eight.

Enrolment in conformity to the act of the Congress of the United States of America, entitled "An act for the enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

Robert Turner, of Baltimore, State of Maryland, having taken or subscribed the oath required by the said act, and having sworn that he is a citizen of the United States, sole owner of the ship or vessel called the Susquehanna of Baltimore, whereof Thomas M. Watts is at present master, and as he hath sworn, is a citizen of the United States, and that the said ship or vessel was built in Baltimore, State aforesaid, in the year eighteen hundred and thirty-seven "1837," as appears by a certificate of enrolment No. 15, granted at the port of Havre de Grace, the 21st day of October, 1852, now surrendered, ownership changed.

And said certificate having certified that the said ship or vessel has one deck and no masts, and that her length is one hundred and fifty-two feet ten inches, her breadth thirty-two feet two inches, her depth ten feet one inch, and that she measures four hundred and fifty-three tons, and $\frac{6}{9}\frac{5}{5}$ parts of a ton; that she is a steamboat, has a square stern, no galleries, and no figure head; and the said Robert Turner having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said steamboat has been duly enrolled at the port of Baltimore.

Given under our hands and seals, at the port of Baltimore, this seventeenth day of January, in the year one thousand eight hundred and fifty seven (1857).

Collector's Office, Custom House, Baltimore,
December 16th, 1858.

I hereby certify that the above is a true copy taken from the records of this office of enrolment, No. 8, issued at this office on the 17th January, 1857, to the steamboat *steamboat* Susquehanna, of Baltimore.

Given under my hand and official seal of the Custom House in Baltimore, the date above written.

[SEAL.] J. S. OWENS, D. C.

Deposition of Lemuel Flannigain, witness for appellees, taken before Levin Gale, Esquire, U. S. Com'r for Maryland, at the city of Baltimore, 16th March, 1859.

Question. Were you in the employ of the firm of Andrew Flannigain and Company in the month of November and December, 1856, and January, 1857, and in what capacity?

Answer. I was as clerk.

Question. Who composed the firm at that time?

Answer. Andrew Flannigain, John Beacham, George Beacham, Samuel Beacham, and Lenox Beacham.

Question. Do you know whether any repairs were done by that firm to the steamer Susquehanna during the above months? and if so, what repairs were done?

Answer. Yes, there were caulkers at work on her; she was caulked, and an amount of carpenter's work done on her.

Question. Did you keep the books of the firm?

Answer. I did.

Question. Did you keep an account of the repairs done on said boat?

Answer. I did.

Question. Who furnished you with the items, and how often were they furnished you?

Answer. Samuel Long furnished the carpenter's work, the amount of lumber and timber, spikes and bolt iron, and the boss caulker with the number of days' caulking, and pitch and oakum used. This was given in every night.

Question. Look at the paper marked S. L. No. 1, and state whether same contains a true account of the work done, and materials furnished the steamer by your firm, and whether the prices therein charged were fair, and the customary charges at that time.

Answer. Yes.

Cross-examined.

Cross-question. Were you the sole clerk of the firm?

Answer. Yes.

Cross-question. Was the office of the firm and the shipyard at the same place?

Answer. Yes.

Cross-question. Have you any personal knowledge that the work and materials charged in the paper S. L. No. 1, were done and furnished as charged, or is your knowledge derived as you have before stated?

Answer. I have a personal knowledge of it. I have seen them at work.

Cross-question. Do you mean to say that you have a personal knowledge of the amount of timber furnished, and plank, and oakum, and pitch, &c., supplied to said vessel?

Answer. Not always.

Cross-question. If you have knowledge of any specific items, mention what items?

Answer. I have seen the timber measured in the yard and put in the boat, but have now no recollection of any specific item.

Cross-question. Specify the items of which you have personal knowledge of timber, or plank, or pitch, or oakum, or spikes?

Answer. I know that all of them were used on the boat, but I can't recollect any specific item on a particular day.

Cross-question. Have you any recollection of the delivery of 40 lbs. of iron on the 2d January, 1857?

Answer. No.

Cross-question. Have you any recollection of 159 feet of timber on the 12th of January, 1857?

Answer. No.

Cross-question. Look at the bill S. L. No. 1, and point out any article of which you have personal recollection and knowledge of the same being delivered and used in said boat.

Answer. I can't recollect.

Re-examined.

Question. In whose handwriting is the account S. L. No. 1?

Answer. In mine.

Question. Is it a true copy taken from your journal, or have you a day book?

Answer. We have a small book which we take the time at night

from the men, and transfer it to the journal in the morning. The account is a true copy taken from the journal.

Question. To whom or to what boat did you charge these repairs in your books?

(Objected to by appellant's proctor.)

Answer. To the steamboat Susquehanna.

Question. Is it your custom to charge repairs that are done to vessels, to the vessels by name, or to the owners?

(Objected to by appellant's proctor.)

Answer. To the vessel by name.

LEMUEL FLANNIGAIN.

The exhibit S. L. No. 1 referred to in the above deposition, is filed and returned with the deposition of Samuel Long, taken before me in this same cause. LEVIN GALE, Com.

Deposition of Samuel Long, witness for appellees, taken before Levin Gale, Esquire, U. S. Com. for Md., at the city of Baltimore, on the 16th day of March, 1859.

Question. Please state what is your business, and how long you have been engaged in it.

Answer. I am a ship carpenter by trade, and have been engaged in that business over thirty years.

Question. For whom were you working in November, 1856?

Answer. Flannigain & Company.

Question. Do you recollect any work being done by that firm to the steamer Susquehanna during that month? and if so, when was it commenced?

Answer. Work was done on that steamer by said firm; it was commenced in the latter part of November.

Question. When did you receive notice or orders that it was to be done, and from whom? That is to say, how long before the work was actually commenced?

Answer. The first that I heard that the work was to be done, was from Luke League's son; this was on a Saturday evening, and on the Wednesday or Thursday following I commenced on the work.

Question. State the conversation you had with him?

(Objected to by the appellant's proctor.)

Answer. As I was going home on a Saturday evening, I saw Luke League's son, and some person with him; I don't recollect now whether it was his father, or who it was; he said to me, boys, we have got a good job for you, and asked whether we had anything on the ways; I told him there was, and he then passed on through, in the direction of the yard.

Question. Did you go to work on her during the ensuing week, and in what capacity did you act with reference to her, and under whose orders?

Answer. I went to work in her the ensuing week, under Mr. Beacham's instructions; I acted as foreman.

Question. What was the character of the work done to her? State some of the things that were done to her.

Answer. She was planked and caulked, and tree-nailed, and had heavy bits put on her, to make fast to when towing; there were many things done to her which I can't remember at this time; when I have finished the work, I dismiss it from my mind.

Question. How long were you engaged on her?

Answer. I was there some eight or nine weeks, may be a little over.

Question. State, if you can recollect, how many men were generally engaged on her during that time.

Answer. We had from eight to twelve carpenters.

Question. How many caulkers?

Answer. Fifteen to twenty caulkers at times.

Question. Were there any boys employed on her? and if so, how many?

Answer. I can hardly say how many boys; three or four, there may have been a half a dozen or a dozen, it is hard to say how many.

Question. Do you know what is the customary charge made by ship-yards for carpenters' work per day, and for caulkers' work per day, and for boys' work per day, at that time?

Answer. Two dollars and a half for carpenters; caulkers, I think, was two dollars and a quarter, if I am not mistaken; it was no less than two dollars, at any rate; boys from seventy-five cents to a dollar.

Question. Did you keep an account, from day to day, of the work done, the hands employed, and the materials furnished? and if so, to whom did you hand it in, and when and where is such report now?

(Objected to by appellant's proctor.)

Answer. I did keep an account of all the work done, materials furnished, and hands employed on this work; I handed it to Mr. Lemuel Flannigain, a clerk of the firm, every night. These reports were taken on a shingle or plank, and no account was taken of them, afterwards thrown away, or under the table.

Question. In your judgment, as a ship-carpenter, what was the fair value of the work done, and materials furnished by Flannigain and Company to the steamer, at the time you have spoken of?

(Objected to by appellant's proctor.)

Answer. I judge it was worth between three and four thousand dollars.

Question. Did you see Robert Turner on or near the boat, during the progress of the repairs; and if so, how often? and did he give any instructions, or make any suggestions, in reference to the work?

Answer. I saw him two or three times a week, about the boat; and he gave instructions too.

Question. Did he give any instructions about being economical in repairing her?

Answer. He said, at one time, he did not want us to cut out any more than we could help.

Question. Do you know anything of repairs done to her rudder by the firm, in the month of January, 1857? and if so, what was the nature of those repairs, and what time did they occupy?

Answer. She had a rudder made that I did not work on; but I saw the rudder after it was made, laying on the deck; this, I think, was in the month of January; they worked on it day and night, all night and all day; I can't say as to the time, it was some three or four days and nights, I think, but I can't come at it exactly.

Cross-examined.

Cross-question. You have stated that you handed to Mr. Lemuel Flannigain, every night, certain memoranda on shingles, &c.; will you state what the memoranda embraced, what character of work, and what particulars?

Answer. So many days' work; so many feet of plank; so many feet of timber; so many pounds of spikes and bolt iron.

Cross-question. Who reported to you the days' work?

Answer. No one reported to me; I went around and saw who was there, and ascertained what time they made.

Cross-question. Did you not ascertain the time of the men from their own statements to you?

Answer. Of course; so as to make things square.

Cross-question. Had you any other means of knowing, other than their own statements?

Answer. As I said before, I knew when the men came, and what men I had under me.

Cross-question. Have you not just stated that you got the time of the men from themselves?

Answer. Certainly; of course I did; and they corroborate exactly with mine, and the time was always correct.

Cross-question. Do you mean that you went around to the ship-carpenters merely, or to whom did you go around?

Answer. I went to the ship-carpenters alone, and took their time; I did not take the time of the others.

Cross-question. From whom did you get the account of the plank, timber, and spikes and bolt iron used?

Answer. I got the plank from the inspector's mark, and timber from the inspector's mark; the spikes and bolt iron we had scales in the yard to weigh them.

Cross-question. Did you weigh them or see them weighed?

Answer. I weighed some, and saw after the others; I was always by when they were weighed.

Cross-question. Did you work on the vessel yourself as one of the ship carpenters?

Answer. I did.

Cross-question. What do you mean by saying that you were foreman?

Answer. Merely that I was to keep the men at work and give them instructions what to do.

Re-examined.

Question. Who took the time of the caulkers and boys?

Answer. The boss caulker generally took the time.

Question. What was his color and the color of the caulkers?

Answer. I mean they were negroes.

Question. Was it your custom, and was it the custom of ship-yards generally at that time, to employ colored caulkers and a colored boss?

Answer. Yes.

Question. Did you see the carpenters when they came to work, and did you see them when they went away, and did you make a note of the time they made?

(Objected to as a re-examination of the witness.)

Answer. Yes.

Question. Were you with them all the time?

Answer. Yes.

Question. Look at the account now shown you, marked S. L. No. 1, and say whether to the best of your recollection, the same contains a true account of the work done and materials furnished by the firm to the steamer Susquehanna, and whether the prices therein charged were fair and reasonable and the customary charges at that time.

(Objected to by the appellant's proctor.)

Answer. I believe that is a true statement; I believe the prices were fair and reasonable.

Re-cross-examined.

Cross-question. Can you recollect in detail the work done and the materials furnished for the steamer Susquehanna, in the months of November and December, 1856, and January, 1857, by Flannigain & Company?

Answer. I cannot.

Cross-question. Can you state how much plank was furnished, or timber, or spikes, or bolt iron?

Cross-question. Can you state the number of days' work of the carpenters on that vessel, with accuracy?

Answer. No.

SAM. LONG.

Account referred to, hereinbefore inserted at the fourth page of this record.

Exceptions to the testimony of Sam. Long and Lemuel Flannigain, which go to prove the amount of caulking said vessel.

TURNER
vs.
FLANNIGAIN et al. } In Circuit Court U. S. on Appeal.

The appellant excepts to that portion of the testimony of Samuel Long and Lemuel Flannigain, which undertakes to establish the amount of caulking done on said vessel by the returns of the negro boss caulker. And also excepts to proving the nightly statements of the caulker and the ship carpenter's work without the small book, being the book of original entries, having been produced.

The journal being a copy of that book, and the bill a copy of the journal, the journal at least is a better and higher evidence than the bill of parcels offered as a copy of it.

BENJAMIN C. BARROLL, Proc. for Appellants.

Deposition of Wm. Crichton, witness for appellees, taken before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Balto. 4th April, 1859.

Question. You have spoken in your examination on behalf of the appellant, of the paper marked W. C. No. 1, as containing a minute of the proceedings of the meeting on the 26th January, 1857, and it appears by that paper, that Mr. Turner proposed to place the boat at the price paid for her, and all charges for repairs, &c.; did he mention what price he had paid for her? and if so, state all which he said at that meeting, or subsequently to you, upon the subject of the price.

Answer. After Mr. Turner had proposed to place the boat at cost and repairs, the question arose what was the cost of the boat? I think I asked that question myself, it suggested itself to me at once, that we might know what we were doing. He (Turner) named, I think, eight thousand dollars as the cost of the boat; this rather took some persons present by surprise; it did me, and I and others questioned Turner on the subject of the cost of the boat, as to whether that was the price really paid for her. He then stated that the cost was about six thousand dollars, but that there were commissions and other expenses which would make the boat cost about that amount. A good deal of discussion ensued upon that point, which gave rise to the latter clause contained in the proceedings after the word adjourned which form the dot. I think ought to have been inserted before the word adjourned; that Turner was to procure the necessary vouchers of the costs of the boat and the repairs, and lay them before a subsequent meeting. But no subsequent meeting was ever held, at least I never had any notice of a subsequent meeting or attended any. Up to that time we had not known what the cost of the boat and repairs were to be.

After the meeting Turner came to my counting room on the after-

noon of the same day of the meeting, and appearing to be rather excited, and said that he came round to tell me that he went home to reflect upon the cost of the boat, went upon his knees, opened his Bible, and accidentally opened it at a place where he found the passage, that a good name was more to be desired than riches, and that he had immediately determined to announce to me what the real cost of the boat had been to him, which amount he then said was four thousand dollars. I think that was all the conversation I ever had with him on the subject. I have no recollection of ever having any further conversation with him on the subject.

Question. Did he make any proposition at that last interview about placing the boat to the subscribers at this newly ascertained cost of four thousand dollars?

Answer. I should have said that in the conversation above referred to with me, he named four thousand dollars as the true cost of the boat, and stated that he was willing to place her to the subscribers at that amount, and I applauded him for so offering.

Question. Do I understand you to say that at the first meeting Turner's proposition to place the boat at the price paid for her, and all charges for repairs, etc., was deferred by the vote of the meeting until a second meeting, when the actual cost and repairs should be ascertained, and that the meeting was then to determine whether they would take her or not?

Answer. At a subsequent meeting the cost and repairs was to be laid before the stockholders for their action.

Question. Did Mr. Turner state at the first meeting what price he had paid for the boat before the proposition to let her go at cost, and repairs was accepted, or did the stockholders, without knowing anything about the cost and repairs, accept the propositions?

Answer. He did not state the cost of the boat and repairs at the first proposition to accept the boat, but the proposition to accept the boat gave rise to the question of cost, and then followed the resolution for him to produce the necessary vouchers at a subsequent meeting.

Question. Did a majority vote for accepting his proposition as above referred to, before they had any knowledge from, or the actual cost originally paid by him for the boat?

Answer. I think they did.

Question. Do you know what the Susquehanna was engaged in before she was bought by Turner, and how old she was?

Answer. I believe she was engaged in ferrying passengers across the Susquehanna River, on the Philadelphia, Wilmington, and Baltimore Railroad. I do not know how old she was.

Question. Do you compose the firm of P. Malcolm and Company?

Answer. I do.

Question. Did you as P. Malcolm & Co. subscribe to this undertaking?

Answer. I did.

Question. Were you ever called upon to pay up your subscription?

Answer. I was.

Question. Did you decline to pay?

Answer. I did.

Question. Who called upon you?

Answer. A man by the name of League. I think he was named Luke League, being the same man who solicited my subscription.

Question. Did he state to you when he first called in whose employ he was?

Answer. He gave me to understand he was soliciting subscriptions for Robert Turner, as he owned the boat.

Question. Upon what ground did you decline to pay, if you stated any ground to Mr. League?

Answer. On the ground that the statements and conditions represented by him, League, had not been complied with.

Question. What was League's general occupation at that time, and is now?

Answer. I think he was connected with the steam tugs in the harbor. I think as captain.

Question. Are you acquainted with the signature of A. Flannigain & Co.?

Answer. No.

Cross-examined.

Cross-question. Was William Mason present at the meeting of January 26th?

Answer. I do not recollect.

Cross-question. How many persons were present at that meeting?

Answer. I should think there were a dozen without looking at the paper—it was a long time ago.

Cross-question. Did any one take minutes at that meeting other than yourself?

Answer. Not to my knowledge.

Cross-question. How long did you retain that paper marked W. C. No. 1 in your custody? When did you part with the same, and to whom?

Answer. To the best of my recollection, it was in my custody until Mr. Barroll sent for it or asked me for it, when I gave it or sent it to him, and I think in the fall of 1857.

Cross-question. Did you not publish or cause to be published the proceedings of the meeting of January 26th, in the city papers? Please reflect before you answer.

Answer. I did not, to the best of my recollection, cause them to be published; I may have communicated the proceedings of the meeting to some of the reporters or others connected with the press, but I have no recollection of causing the proceedings to be published over my name as secretary officially.

Cross-question. Do you think you did so communicate?

Answer. 'Tis very probable I did.

Cross-question. Are you positive that you did not receive a notice in writing to attend a meeting of the stockholders of the Ice King, about the 23d of February, 1857?

Answer. I have no recollection of receiving notice to attend but one meeting, and that was the first one referred to in my testimony.

Cross-question. Did you state to any one that you would not unite in the enterprise of making the Ice King an ice and tow-boat if William Mason had anything to do with it?

Answer. Never, to the best of my recollection.

Cross-question. You have spoken of an interview between Robert Turner and yourself on the 26th of January, after the meeting at Mr. Jackson's, at what hour did such interview take place, and where?

Answer. Between the hours of two and four o'clock, at my counting room, on Bowley's wharf.

Cross-question. At what hour did the meeting at Jackson's take place, and what length of time was consumed by the meeting?

Answer. It was in the forenoon, I think about ten or eleven o'clock, and occupied, I think, about an hour.

Cross-question. Did Mr. Turner state at the meeting what sum he was to pay by way of commission for the boat, and to whom it was to be paid?

Answer. He did not. WM. CRICHTON.

Order of Reference.

TURNER
vs.
FLANNIGAIN & Co.

Circuit Court of the U. S. April Term, 1859.

Ordered that the papers in this case be referred to Levin Gale, a commissioner of this court, to examine and report to this court the amount due for repairs and materials found, and work and labor done by the appellees on the steamboat Susquehanna—either party to be at liberty to offer proof in addition to that contained in the papers referred to. The commissioner will state an account showing the amount due, according to his judgment, and also such an account as either of the parties may direct, and report his proceedings and judgment to this court as early as conveniently may be at the present Term—either party to be at liberty to except to the commissioner's account, or to any item contained in it. The commissioner will take proof as to the usual mode of keeping the account and stating the items between the mechanic and ship owner in this case of this description.

April 18, 1859. R. B. TANEY.

Agreement.

TURNER
vs.
FLANNIGAIN.

In the Circuit Court of the United States for the District of Maryland.

Before proceeding to take depositions in this case it was agreed between the proctors for the respective parties that the depositions taken should be subject to all exceptions to which they were properly liable, and that it should not be necessary to take or specify such exceptions before the commissioner, or note the same on the depositions.

LEVIN GALE, Com.

Deposition of Lemuel Flannigain, witness for appellees, taken under the order of reference, by Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, 19th April, 1859.

Question. Please state whether or not you have looked this morning at the day-book of the firm of A. Flannigain & Co., and whether you made the entries therein, if any entries appear with reference to the repairs done to the steamer Susquehanna.

Answer. I have examined the day-book this morning, and find entries therein, which were made by me with reference to the repairs done to the Susquehanna.

Question. In the account marked S. L., No. 1, have you made any charge for the time of John S. Beacham—and if so, what was the rate of charge, and in what capacity did he act in reference to the repairs, if any?

Answer. Yes, I have charged his time at two dollars and a half a day; he acted as superintendent.

Question. How many days have you charged for him?

Answer. Forty.

Question. Did he give in his time from day to day, or when the work was ended?

Answer. When the work was ended.

Question. Was he engaged during the period equal to forty days in superintending of repairs done to the boat?

Answer. Yes.

Question. Did you add to the account, at the end of it, his whole time, or did you distribute it through the account?

Answer. I distributed it through the account.

Question. Is it your custom to make charge for the services of Mr. Beacham, as superintendent, where repairs are done to an old steamer or boat, that is to say, one previously built?

Answer. Yes.

Question. Is it the habit for Beacham's time to be given in from day to day, or at the end of the work?

Answer. He generally gives it in from day to day.

Question. Do I understand you to say that he did not do so in this instance; and if so, why did he not follow his general practice, if you know?

Answer. He did not in this instance; I suppose he neglected it from night to night, he not being at the yard when I was taking the time; he was always at the boat then.

Question. Where was the boat then lying?

Answer. A part of the time at the yard of Flannigain & Co., and when the rudder was being repaired she was not at our yard; I don't know where she then was.

Question. Look at the account S. L., No. 1, and particularly at the items charged on the 29th of November, 1856, and state whether or not you see any error in any of those items as to date or otherwise. If so, state where lies the error.

Answer. There is an error in date; the items are all correct. All the items, after those on the first line opposite to 29, should be December the first; that is, December 1st, should come after drayage, 75 cts.

Question. How did you ascertain that error?

Answer. By referring to the time book.

Question. Have you the time book here, and the journal.

Answer. I have.

Question. When did you take the time down?

Answer. Every night.

Question. Did you take down at the same time and in the same book the materials as they were given in to you?

Answer. Yes.

Question. When did you transfer them to the journal?

Answer. Every morning.

Question. Is such your custom with reference to the work done and materials furnished by your firm in other cases?

Answer. Yes.

Question. In looking at the journal, I find that there are some lead pencil marks in the shape of a cross attached to various charges for carpenter's work; what do these marks mean, and when, and by whom were they made?

Answer. They are to show that at those dates I charged Beacham's time. They were made by me after the work was done, to indicate that one day's work was to be added for Mr. Beacham's time. The day was never actually added in the journal, was added in making out *out* account S. L., No. 1.

Question. Do I understand you to say, that with this exception, account S. L., No. 1, is a copy of the journal?

Answer. Yes.

Cross-examined.

Cross-question. Do I understand you to say that the bill S. L. No.

1, is different from the items as they appear in the journal of which you have spoken?

Answer. The only difference is putting in Mr. Beacham's time.

Cross-question. Was not the steamer Susquehanna, during a portion of the time she was being repaired by Flannigain and Company, upon the railway of Cooper and Butler?

Answer. Yes.

Cross-question. For what length of time?

Answer. I do not recollect.

Cross-question. Give us the time as near as you can?

Answer. I can't recollect what day she was hauled up. If you would give me the date when she was hauled up, I could tell by looking at the bill. She came to the yard the day she was launched.

Cross-question. Did you transfer the account from the journal to the leger?

Answer. Yes.

Cross-question. Do they correspond?

Answer. Yes.

Cross-question. Did you copy account S. L. No. 1, from the leger?

Answer. No.

Cross-question. Where is the small book of which you spoke in your former examination?

Answer. The book is here now. I think we used to have a small book, but I believe all the time was taken in the book marked "Time," I now show you.

Cross-question. Have you the leger here?

Answer. No.

Re-examined.

Question. You have spoken of time-book and day-book, do you mean the same book?

Answer. Yes. LEMUEL FLANNIGAIN.

The counsel for the appellant here called for the leger.

Whereupon Mr. Flannigain went for the same, and returned with it and produced it, and the appellant offers it in evidence.

The proctor for the appellees then proposed to go into a comparison of the time-book with the journal and account S. L. No. 1, provided the appellant's proctor should not waive the same. The appellant's proctor then took time to examine said books and consider whether he would require such examination to be made.

Afterwards, on April 22d, 1859, Lemuel Flannigain being recalled for further examination, and being examined on the part of the appellees, further answereth and saith, as follows, to wit:—

Question. You have said in your recent cross-examination by Mr. Barroll, that you used to have a small book in which the time was entered, but that you believed that all the time of the particular account was taken in the book marked "Time." Look at that time-

book, and also at the account S. L. No. 1, and say whether all the time and materials are to be found in the book so marked "time." State the particular occasions and days when the time and materials in the account are not to be found in the time-book, and the reason of such failure to enter them. State also where, if you know, the small book is, and whether you think it contained any entries with reference to this account.

Answer. The first entry in the time-book is on the 21st November, 1856. The entry on that day in the time-book corresponds with the account, except that one day's carpenter is added in the account for Mr. Beacham. The same is the case on the 22d; the same is the case on the 24th; the same is the case on the 25th; the same is the case on the 26th; the same is the case on the 27th; the same is the case on the 28th; the same is the case on the 29th. So far as the entry of 75 cents for drayage, the balance of the entry in the account after the drayage should bear date as of the 1st of December, and corresponds with the account except that one day should be added for John Beacham to the carpenters.

The entry of the 2d of December is correct, with one day added for John Beacham to the carpenter's. The same is the case on the 3d December; the same is the case on the 4th; the same is the case on the 5th; the same is the case on the 6th; the same is the case on the 8th. The 9th, which is charged in the bill, I do not find on the time-book; nor the 10th; nor the 11th; nor the 12th; nor the 13th; nor the 15th; nor the 16th; nor the 17th; nor the 18th; nor the 19th; nor the 20th.

The 22d of December the entry in the account corresponds with that of the time-book, with one day added for John Beacham. The 23d, which is charged in the bill, I do not find on the time-book; nor the 24th; nor the 26th.

On the 27th of December there is an entry in the time-book of 7 days' carpenter, and one, to be added for Beacham, would make 8 days, but in the account by mistake 9 days are charged. The charge for caulkers, &c., correspond, but there are some materials charged in the account of which there is no entry in the time-book.

There is a charge on the bill of the 29th of December, but no entry in the time-book; the same is the case on the 30th; the same of the 31st. There is no entry in the time-book on the 1st of January, 1857, except for 675 timber, which corresponds to that extent with the account. There is no charge on the time-book for caulker and boys on January the 2d, and more timber is charged in the account than is shown in the time-book. There is no charge on the 3d of January in the time-book; nor on the 5th; nor on the 6th; nor on the 7th. The 8th of January corresponds with one day added in the account for John Beacham. The same is the case with the 9th January; the same is the case with the 10th, with no day added for Beacham; the same is the case on the 12th, no day for Beacham; the same is the case on the 13th, no day added for Beacham; the

same is the case on the 14th, no day added for Beacham; the same is the case on the 15th, no day added for Beacham; the same is the case on the 16th, no day added for Beacham; the same is the case on the 17th, no day added for Beacham; the same is the case on the 20th, no day added for Beacham; the same is the case on the 21st, no day added for Beacham; the same is the case on the 22d, no day added for Beacham; the same is the case on the 23d, no day added for Beacham; the same is the case on the 24th, no day added for Beacham; the same is the case on the 26th, no day added for Beacham; the same is the case on the 27th, no day added for Beacham; the same is the case on the 28th, no day added for Beacham; the same is the case on the 30th, no day added for Beacham; the same is the case on the 31st, no day added for Beacham; the same is the case on February 2d, no day added for Beacham; the same is the case on the 3d, no day added for Beacham; the same is the case on the 4th, no day added for Beacham; the same is the case on the 5th, no day added for Beacham. This goes through the whole account. The time and materials were sometimes taken on a piece of paper or in a small book, and that must have been the case where the entries are not found in this book. The small book has been lost; I searched for it this morning; I suppose it was lost in moving. This small book may have contained entries with reference to this account.

Question. Under what circumstances, and why was it, that you took the time and materials sometimes on a piece of paper instead of entering them in the large time-book?

Answer. If I wished to leave the yard before the bell rang, I used to take a piece of paper and go out into the yard and take the time and materials.

Question. At what hour did the day's work end, and how long before that hour did you thus take the time and materials, and from whom were they taken?

Answer. In the summer the day's work ended at six o'clock; in the winter, at sundown. I sometimes took the time from a half to three-quarters of an hour before the day was ended. I took them from the boss caulker and the foreman.

Question. What did you do with this paper then?

Answer. Sometimes I carried it in my pocket, and frequently laid it in the journal so as to enter it next morning.

Question. Was it your practice to enter the items from the paper in the journal the next morning with the charges attached?

Answer. Yes, the first thing.

Question. Can you say whether or not the small book which is lost, contained any items with reference to these repairs?

Answer. I can't recollect.

Question. Have you looked for that small book in such places as it would be likely to be if not lost?

Answer. I did.

Question. When did you move your books?

Answer. We moved the books from the office about a year ago, I guess, but we were moving the railway some time before that.

Question. What became of the pieces of paper containing the original entries to which you have referred, after you had entered the items and charges in the journal?

Answer. I tore them up or destroyed them.

Question. Do you know whether or not it was the practice to preserve memoranda of time and materials at the yard before you went there as clerk? If not, what was the practice upon the subject?

Answer. They were never preserved or kept. The time was taken on a memorandum book, then entered from that to the journal, and then rubbed out, and the same book used again for fresh entries. It was made of a material which I do not know exactly how to describe, which permitted the entries to be rubbed out like a slate.

Question. State whether or not the repairs by the firm of A. Flannigain & Company were continually going on from day to day *to day* except Sundays, from the 21st of November, 1856, to the 17th January, 1857.

Answer. Yes sir, they were going on.

Question. When the Susquehanna came back on the 20th January, did you work on her continuously until she was discharged?

Answer. Yes, the bill states so.

LEMUEL FLANNIGAIN.

Deposition of Jesse Sanks, taken under the order of reference, before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, on the 19th April, 1859.

Question. Are you of the firm of Sanks & Riggin? If so, what is their occupation, and where do they do business?

Answer. I am a member of that firm; the business of the firm is ship building and repairing. They do business on the south side of the basin in the adjoining yard to Flannigain & Company.

Question. How long have you been engaged in the ship building business?

Answer. I think about sixteen years.

Question. When work is done at your yard and materials furnished in repairing a vessel, who makes return to you of such work and materials, and at what time of the day is such return made?

Answer. The foreman makes the return at night when the day's work is finished.

Question. Who returns the caulking time, and the pitch and oakum used?

Answer. The boss caulker.

Question. In the winter of 1856–7 what was the color of the caulkers, and the boss caulker employed in the city of Baltimore?

Answer. Colored caulkers and boss caulkers.

Question. When the returns are thus made at night, do you make an entry of them in any book, and what do you call that book?

Answer. We make entries in a book which is called day-book or time-book.

Question. Are they transferred to the journal, and when?

Answer. Yes, they are transferred. I am not a bookkeeper exactly, but it is done when the bills are made out.

Question. State whether or not you are in the habit of entering the items from the day-book to the journal the day after the work is done?

Answer. I am not exactly prepared to say whether they are entered the day after or not.

Question. In doing repairs to a vessel previously built, is it your habit to charge the services of a superintendent of the work? And if so, how much per day?

Answer. It is our custom to charge for him at the rate of two dollars and a half a day.

Cross-examined.

Cross-question. What wages per day were you paying to ship carpenters in the winter of 1856–7?

Answer. Paying from two to two dollars and a quarter per day.

Cross-question. Do you charge for superintendence when there is a foreman attending to the work?

Answer. Yes, we charge for superintendence when required.

Cross-question. Do you mean that you charge for superintendence when the party giving the directions is a member of the firm?

Answer. Yes, if a member of the firm superintends he charges for his work.

Re-examined.

Question. What were you charging for carpenters' work in November and December, 1856, and January, 1857, if you can recollect?

Answer. Two dollars and a half a day.

Question. Look at account S. L. No. 1, and state whether, in your judgment, such work and materials as are therein mentioned as done to the steamer Susquehanna, called for the employment of a superintendent.

Answer. I should think they would. J. SANKS.

Deposition of James N. Muller, witness for appellees, taken under the order of reference before Levin Gale, Esq., U. S. Com. for Maryland, at the city of Baltimore, 19th April, 1859.

Question. Are you of the former firm of J. N. and P. H. Muller? If so, what is your occupation, and where do you do business?

Answer. Yes, I am a ship carpenter, and do business at the corner of Philpot and Point Streets, on the north side of the Basin.

Question. How long have you been engaged in the ship building business?

Answer. Since 1844.

Question. Are you now carrying on that business on your account?

Answer. Yes.

Question. When work is done at your yard, and materials furnished in repairing a vessel, who makes return to you of such work and materials, and at what time of the day is such return made?

Answer. The foreman makes the return in the evening at the close of the day.

Question. Who returns the caulkers' time and the pitch and oakum used?

Answer. The black foreman.

Question. In the winter of 1856–7 what was the color of the caulkers and boss caulkers employed in the city of Baltimore?

Answer. Black.

Question. When the returns are thus made at night, do you make an entry of them at that time on any book? If so, what do you call that book?

Answer. We enter them partly that night and partly next day; with regard myself I have a time book in which I enter the time exclusively, and another in which we make the charges against the vessel for which we are doing the work.

Question. When do you enter the items in this second book, and attach the charges thereto, if you do so attach them?

Answer. The next day, and frequently on the same day, as the man may want his bill on the same day when the work is done.

JAMES N. MULLER.

Agreement.

TURNER
vs.
FLANNIGAIN.

In the Circuit Court for the U. S., before Com. Gale.

It is agreed in this case that the two credits for the two notes of $750 each in the ledger of the appellees, are not to be regarded as payments of the account, the same *the same* having been taken up by Turner at maturity, and Turner having obtained a judgment thereon against these appellees, in the Superior Court of Baltimore City. The appellant, however, not waiving his objections to the jurisdiction of this court, arising out of the receipt for said notes offered in evidence. It is admitted that Turner received the fund in court from O. Horwitz, receiver, in virtue of the order of the Circuit Court for Baltimore City, of the 4th November, 1858.

B. C. BARROLL, for Appell't.
WM. B. PERINE, for Appellees.

Appellant's Objections to the Commissioner.

TURNER
vs.
FLANNIGAIN et al.

In Circuit Court on Appeal.

To Levin Gale, Esq., commissioner: As you are required to state an account in this case, I beg leave to submit the following views:—

1. I object and except to all the proof offered in relation to the time and work of the caulkers, because it calls in aid negro testimony, and particularly to that portion of it which does not appear upon the "Time book."

2. I object and except to the testimony of carpenters' work and materials, so far as the same is offered to be proven by the "Time book," and particularly to that portion of the bill of items which does not appear upon the "Time book."

3. I object and except to the one hundred dollars claimed for the time of John S. Beacham, which appears in lead pencil on the ledger. I contend that there is no evidence of forty days' service by said Beacham.

4. And I object that there is no sufficient evidence of how much work and labor were performed by appellees on the steamboat, and no account can be stated which will not be mere guessing, the proof not being satisfactory or sufficient.

BENJ'N C. BARROLL, Proc. for Turner.

Appellees' Instructions to the Commissioner.

ROBERT TURNER
vs.
ANDREW FLANNIGAIN & Co.

In Circ't C. U. S.

Mr. Gale will please state an account allowing libellants the amount claimed in their libel and account with interest from 1st July, 1857, less (2 50 error) charged in journal to Turner on the 185 for carpenters' work and $9 06 credited to Turner on the ledger of libellants for old iron on 20th March, 1857.

WM. B. PERINE, for Libell'ts.

Commissioner's Report and Accounts.

ROBERT TURNER
vs.
A. FLANNIGAIN et al.

In the Circuit Court of the United States, for the District of Maryland.

To the honorable the Circuit Court of the United States, for the District of Maryland: The undersigned commissioner, to whom the *the* papers in the above case were referred, respectfully reports as follows, to wit:—

With the libel there was filed the bill containing the particulars of the libellants' claim. This bill, which has since been marked S. L. No. 1, is a copy from the journal of the libellants, with the addition of 40 days added for John Beacham, one of the libellants, as superintendent, at the rate of $2 50 per day. The entries, the witness, Lemuel Flannigain, testifies, were made by him from memoranda taken by him each day, either in a book or on scraps of paper, and transferred on the following morning to the journal. This appears to be the usual course pursued by others engaged in a similar business.

On the second examination of Mr. Flannigain, he produced a time or day-book, but when called on to compare this book with the account S. L. No. 1, it appeared that on twenty different days on which numerous charges for work and materials are made in account S. L. No. 1, and in the journal there do not appear to have been any entries made in the time-book, and on three other days there are various items charged in the account which do not appear in the book. These omissions are attempted to be supplied by the evidence of the witness that he sometimes took memoranda on scraps of paper which he destroyed after entering the items in the journal, and that another small book was also used which has since been lost. But the witness does not profess to remember anything with regard to entries in this particular case. The commissioner is satisfied that the original entries made in the time-book under the circumstances, disclosed in his testimony of Lemuel Flannigain and Samuel Long, a competent evidence to establish the claim to the extent to which they go; but he has had great difficulty in coming to a conclusion with reference to items in the journal and account which are not to be found in the time-book. He is not satisfied that secondary entries thus made are competent evidence, and has therefore sought other evidence in relation to that part of the case.

The rejection of the items not found in the time-book, leaves a considerable gap of time during which the libellants must have been doing work and furnishing materials to the steamer Susquehanna, or else the work must have been entirely suspended.

Now it appears not only from the testimony of Long and Flanni-

gain, but also from that of Capt. Watts and Luke League, witnesses produced by the appellant, that the work went on continuously during the time the steamer was in the hands of the libellants, and it is obvious from the whole tenor of the testimony that during the twenty days in which no entries can be found in the time-book, the work was going on as usual, and there must necessarily have been large numbers of persons employed and various materials furnished by libellants. To this is to be added the testimony of Long that he estimates the value of the work done and materials furnished by libellants at from three to four thousand dollars; and the further fact that the appellant has not attempted to show in any way that the value of the work done or materials furnished was less than claimed by libellants. In addition to this the appellant called for and offered in evidence the ledger of the libellants.

Whilst the commissioner does not consider that by this offer the appellant conclusively bound himself to the truth of the entries in the ledger, he holds that they become a part of the evidence, and being satisfied that they are substantially correct, he has adopted those entries as the basis of the account which he herewith reports marked A. The charge in pencil of $100 for the time of Mr. Beacham he does not consider an entry, and has not therefore allowed it.

The accompanying accounts, B, C and D are stated to meet other views of the testimony, and in obedience to the suggestion of the proctors for the respective parties.

All of which is respectfully submitted. LEVIN GALE.

The commissioner asks to be allowed for this report and account the sum of twenty dollars. LEVIN GALE.

Account A.

ROBERT TURNER
vs.
A. FLANNIGAIN et al.

In the Circuit Court of the United States for the District of Maryland.

To amount of charges as per ledger,	$2558 28
Cr. by cash for old iron as per ledger,	9 06
	$2549 22
To interest from 1st July, '57, to 27th April, 1859,	278 66
	$2827 88

Account B.

ROBERT TURNER
vs.
A. FLANNIGAIN et al.

In the Circuit Court of the United States for the District of Maryland.

To amount of work and materials as per account S. L. No. 1;	$2665 73
Less error for 1 day's car work overcharged,	2 50
	$2663 23
Cr. by cash for old iron ret'd as per ledger,	9 06
	$2654 17
To interest from 1 July, 1857, to 27 April, 1859,	290 18
	$2944 35

Account C.

ROBERT TURNER
vs.
A. FLANNIGAIN et al.

In the Circuit Court of the United States for the District of Maryland.

To amount as per account S. L., No. 1, less error and credit, as per account B.	$2,654 17
Deduct time and materials charged in account S. L., No. 1, which are not entered in the time-book, excluding time allowed to John Beacham,	1,200 31
	$1,453 86
To interest from 1 July, 1857, to 27 April, 1859,	158 94
	$1,612 80

Account D.

ROBERT TURNER
vs.
A. FLANNIGAIN et al.

In the Circuit Court of the United States for the District of Maryland.

To amount as per account S. L., No. 1, less error and credit, as per account B,	$2,654 17

Deduct time and materials charged in account S. L., No. 1, which are not entered in time-book, John Beacham's time,	1,300 31
	$1,353 86
	148 01
	$1,501 87

Exceptions to Accounts and Report of Commissioner Gale.

ROBERT TURNER
vs.
FLANNIGAIN and others.

In Circuit Court U. S.

To his Honor, Chief Justice Taney:—

1. The appellant, Turner, respectfully excepts to the commissioner's account A, filed in this cause, because the charges therein allowed are not sufficiently proven, and because the said account allows interest on the charges.

2. The appellant excepts to account B, for same reasons as stated above in relation to account A., and because in account B the item of one hundred dollars to John Beacham is allowed for superintendence.

3. The appellant excepts to account C, so far as the interest allowed; and also because the bill allowed is not proven, and to ac't D for the same reasons.

4. And the appellant excepts to all the accounts filed by the commissioner, because he has allowed the items for caulking the vessel, the value of which the appellant thinks is not proven by legal testimony.

BENJ'N C. BARROLL, for Turner.

Final Decree.

ROBERT TURNER
vs.
A. FLANNIGAIN and others.

Circuit Court of the U. S., April term, 1859.

This cause standing ready for hearing, the libel filed by the appellees, and the answer of the appellant, and the other proceedings, were read and considered by the court and the case argued by counsel, and this court being of opinion that the libellants were entitled to recover against the appellant the value of the work and labor done, and materials found in repairing and fitting out the vessel mentioned in the libel, the proceedings and evidence in the case were thereupon referred to a commissioner of this court, with directions

to ascertain the amount due according to the evidence in the record, or such further evidence as the parties should produce before him; and the commissioner, having made his report, and reported also the accounts as claimed by the respective parties, and the proctors for the parties having been heard upon the report of the commissioner, and upon the exceptions taken to his report, it is thereupon, upon consideration of the premises, ordered and adjudged that the account A reported by the commissioner be, and the same is, hereby confirmed, and that the decree in the District Court be reformed in the amount, so as to correspond with the amount reported by the commissioner to be due, and so reformed it is hereby affirmed: And this court, proceeding to give such judgment as ought to have been given by the District Court, order, adjudge and decree that the appellant pay to the libellants, or bring into this court to be paid to them, the sum of two thousand eight hundred and twenty-seven dollars and eighty-eight cents, and that each party pay one half the costs in this court, including the fees of the commissioner.

April 29, 1859. R. B. TANEY.

Order to enter Appeal.

ROBERT TURNER
vs.
FLANNIGAIN et al.

In Circuit Court U. S.

Mr. Spicer: Enter an appeal from *from* the decree in this court to the Supreme Court of the United States.

BENJ'N C. BARROLL,
For Turner.

April 29, 1859.

Appeal Bond.

Know all men by these presents, that we, Robert Turner and J. J. Turner and J. Q. A. Holloway, of the city of Baltimore, are held and firmly bound unto Andrew Flannigain, John Beacham, George Beacham, Samuel Beacham and Lennox Beacham, partners, trading as Andrew Flannigain & Company, in the sum of six thousand dollars, to be paid to them, to which payment, well and truly to be made and done, we bind ourselves, our heirs and representatives, jointly and severally, firmly by these presents. Sealed with our seals and dated this tenth day of May, eighteen hundred and fifty-nine.

Whereas, in a suit in the Circuit Court of the United States in and for the Maryland District, a decree has been entered against the said Turner, and in favor of the said Flannigain and others, bearing date on the twenty-ninth day of April, eighteen hundred and fifty-nine, for the sum of two thousand eight hundred and twenty-seven dollars and eighty-eight cents. And whereas the said Robert Turner hath appealed from such decree to the Supreme Court of the

United States, Now the condition of the foregoing obligation is such, that if the said Robert Turner shall prosecute the said appeal with effect, or in default thereof shall pay the said Flannigain and others the amount of said decree, in case the same shall be affirmed, with all costs, damages and charges, then the said obligation shall be void, otherwise to be and remain in full force, virtue and effect.

Witness our hands and seals, on the day and year aforesaid.

ROB. TURNER, [SEAL.]
J. J. TURNER, [SEAL.]
J. Q. A. HOLLOWAY. [SEAL.]

Signed, sealed and delivered in our presence,
V. H. KLINEFELTER,
WM. ROBERTSON.

Bond approved 11th May, 1859.

WILLIAM F. GILES.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the Circuit Court aforesaid,

I hereunto subscribe my name and affix the seal of the said Circuit Court, this fourteenth day of June, in the year of our Lord one thousand eight hundred and fifty-nine.

THO. SPICER, Cl'k Circ't Ct.

Filed 21st December, 1849.

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